

SEVENTH DAY
(Tuesday, July 28, 1981)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Andujar, Blake, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Traeger, Travis, Truan, Uribe, Vale, Williams, Wilson.

Absent-excused: Snelson.

A quorum was announced present.

The Reverend Dr. Gerald Mann, Senate Chaplain, offered the invocation as follows:

Our Father,

Remind us that there's a difference between having an open mind and having a hole in our head. Amen.

On motion of Senator Mauzy and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator Snelson was granted leave of absence for today on account of important business on motion of Senator McKnight.

SENATE RESOLUTION ON FIRST READING

The following resolution was introduced, read first time and referred to the Committee indicated:

S.C.R. 20 by Doggett Administration
Granting Hanover Building Materials, Inc., permission to sue the State.

CO-AUTHORS OF SENATE BILL 18

On motion of Senator Mengden and by unanimous consent, Senators Travis and Leedom will be shown as Co-authors of **S.B. 18**.

CO-AUTHORS OF SENATE JOINT RESOLUTION 7

On motion of Senator Mengden and by unanimous consent, Senators Travis and Leedom will be shown as Co-authors of **S.J.R. 7**.

CO-AUTHOR OF SENATE CONCURRENT RESOLUTION 11

On motion of Senator Mengden and by unanimous consent, Senator Leedom will be shown as Co-author of **S.C.R. 11**.

CO-AUTHORS OF SENATE BILL 14

On motion of Senator Sarpalius and by unanimous consent, Senators Meier, Glasgow, Short, Williams and Mengden will be shown as Co-authors of S.B. 14.

CO-AUTHORS OF SENATE CONCURRENT RESOLUTION 19

On motion of Senator Uribe and by unanimous consent, Senators Truan, Mauzy, Vale and Santiesteban will be shown as Co-authors of S.C.R. 19.

CO-AUTHOR OF SENATE JOINT RESOLUTION 1

On motion of Senator Williams and by unanimous consent, Senator Kothmann will be shown as Co-author of S.J.R. 1.

CO-AUTHOR OF SENATE JOINT RESOLUTION 2

On motion of Senator Williams and by unanimous consent, Senator Kothmann will be shown as Co-author of S.J.R. 2.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Subcommittee on Nominations:

Austin, Texas
July 28, 1981

TO THE SENATE OF THE SIXTY-SEVENTH LEGISLATURE, FIRST
CALLED SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE A MEMBER OF THE TEXAS INDUSTRIAL COMMISSION:

For a six-year term to expire February 15, 1987:

JOHN F. SAMMONS, JR. of Temple, Bell County, is replacing Charles Truett Smith of Wylie, Collin County, whose term expired.

J. A. (JOE) KLOESEL, JR. of Midland, Midland County, is replacing Sam C. Naifeh of Orange, Orange County, whose term expired.

TO BE A MEMBER OF THE TEXAS COMMISSION ON ALCOHOLISM:

For a six-year term to expire June 8, 1987:

JIM CLIPSON of Eagle Lake, Colorado County, is being reappointed.

Respectfully submitted,

William P. Clements, Jr.
Governor of Texas

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator McKnight gave notice that he would tomorrow at the conclusion of Morning Call submit to the Senate for consideration nominations to agencies, boards and commissions of the State.

SENATE CONCURRENT RESOLUTION 17

Senator Howard offered the following resolution:

S.C.R. 17, Congratulating Bill Rogers on winning the British Open Golf Tournament.

The resolution was read.

On motion of Senator Howard and by unanimous consent, the resolution was considered immediately and was adopted.

HOUSE CONCURRENT RESOLUTION 17

The President laid before the Senate the following resolution:

H.C.R. 17, Welcoming Burt Reynolds, Dolly Parton, and the production company of "Best Little Whorehouse in Texas".

The resolution was read.

On motion of Senator Sarpalius and by unanimous consent, the resolution was considered immediately and was adopted.

HOUSE CONCURRENT RESOLUTION 22

The President laid before the Senate the following resolution:

H.C.R. 22, Expressing condolences to the families of Carl Baker, Steve Booker, and Anthony Freeman.

The resolution was read.

On motion of Senator Caperton and by unanimous consent, the resolution was considered immediately and was adopted.

RECORD OF VOTE

Senator Glasgow asked to be recorded as voting "Present-not voting" on the adoption of the resolution.

REPORTS OF STANDING COMMITTEES

Senator Santiesteban submitted the following report for the Committee on Natural Resources:

S.B. 14

S.R. 65

Senator McKnight submitted the following report for the Subcommittee on Nominations:

We, your Subcommittee on Nominations, to which were referred the following appointments, have had same under consideration, and beg to report them back to the Senate for final consideration.

To be a Member of the FINANCE COMMISSION OF TEXAS - SAVINGS AND LOAN SECTION: Harvey Ray Mitchell, Dallas County.

To be a Member of the TEXAS BOARD OF CORRECTIONS: Lindsley Waters, Jr., Dallas County.

To be JUDGE OF THE 274TH JUDICIAL DISTRICT: Fred A. Moore, Caldwell County.

To be Members of the ADVISORY BOARD OF ATHLETIC TRAINERS: Cash Birdwell, Dallas County; Al Wilson, Bell County.

To be Members of the BANDERA COUNTY RIVER AUTHORITY: Paul L. Garrison, Jr., Bandera County; Raymond Hicks, Bandera County; Timothy Stephen Tobin, Bandera County.

To be Members of the TEXAS COMMITTEE ON PURCHASES OF BLIND-MADE PRODUCTS AND SERVICES: Billy J. Killion, Williamson County; Gordon B. Richardson, Burleson County; Robert Merz, Williamson County; Mrs. Jane D. Pieper, Bexar County; Austin Scott, Rockwall County; Marion Truitt, Taylor County.

To be BRANCH PILOTS - GALVESTON BAR AND HOUSTON SHIP CHANNEL: Capt. Allan R. Barry, Harris County; Captain Lance Alan Miller, Harris County; Captain Ernest D. Reed, Harris County.

To be Members of the BOARD OF DIRECTORS - BRAZOS RIVER AUTHORITY: J. C. Chambers, Lubbock County; Nelson Daniel Durst, Brazos County.

To be Members of the CENTRAL COLORADO RIVER AUTHORITY: Robert J. Cheaney II, Coleman County; Nick Knox, Coleman County; Isaac S. Pate, Sr., Coleman County.

To be Members of the CIVIL AIR PATROL COMMISSION: Maurice D. Harrell, Gonzales County; William O. Manning, Hamilton County.

To be a Member of the CREDIT UNION COMMISSION: Jimmy Sasser, Hidalgo County.

To be Members of the TEXAS COMMISSION FOR THE DEAF: Martin A. O'Neal, Dallas County; Mrs. Betsy Stanley, Tarrant County.

To be a Member of the DISTRICT REVIEW COMMITTEE FOR DISTRICT IV: Dr. Harold R. High, DeWitt County.

To be a Member of the FAMILY FARM ADVISORY COUNCIL: Clayton Duke, Lampasas County.

To be Members of the COMMISSION ON FIRE PROTECTION PERSONNEL STANDARDS AND EDUCATION: Rae Michael Eastland, McLennan County; Dodd Miller, Dallas County; Henry Smith, Brazos County.

To be Members of the TEXAS JUDICIAL COUNCIL: Mark Martin, Dallas County; Charles J. Murray, Tarrant County.

To be Members of the BOARD OF DIRECTORS - LAVACA COUNTY FLOOD CONTROL DISTRICT NO. 3: Robert Gindler, Lavaca County; Leon Louis Kahanek, Jr., Lavaca County; Alfred Neumeyer, Jr., Lavaca County; Robert Joseph Pesek, Lavaca County; Reynold Veselka, Lavaca County.

To be a Member of the COMMISSION ON LAW ENFORCEMENT OFFICER STANDARDS AND EDUCATION: Sammy Leach, Jr., Angelina County.

To be Members of the LOWER CONCHO RIVER WATER AND SOIL CONSERVATION AUTHORITY: Leroy Beach, Concho County; Howard Loveless, Concho County; Bill J. Mikeska, Concho County; Norban Alton "Rusty" Taylor, Concho County.

To be a Member of the STATE BOARD OF MORTICIANS: Mrs. Sam D. Ward, Harris County.

To be a Member of the BOARD OF DIRECTORS - NUECES RIVER AUTHORITY: William A. Beinhorn, Jr., Bexar County.

To be Members of the STATE BOARD OF PHARMACY: Jerry H. Hodge, Randall County; R. E. Post, Harris County.

To be a Member of the TEXAS BOARD OF PHYSICAL THERAPY EXAMINERS: David Allan Hardison, Gillespie County.

To be Members of the STATE PROPERTY TAX BOARD: William Johns Burnett, Bexar County; Marvin L. Jones, Hansford County.

To be Members of the RADIATION ADVISORY BOARD: Dr. John A. Burdine, Harris County; Howard Drew, Tarrant County; Dr. Ed Griffin, Dallas County; Dr. William Gordon McGee, El Paso County; Boone Powell, Jr., Dallas County.

To be a Member of the TEXAS REAL ESTATE COMMISSION: W. Norris Moseley, Harris County.

To be a Member of the STATE SEED AND PLANT BOARD: Eddie Lee Thompson, McLennan County.

To be Members of the BOARD OF TAX ASSESSOR EXAMINERS: Gerald N. Carmona, Cameron County; Mrs. Frances Shuffield, Midland County.

To be Members of the BOARD OF REGENTS - TEXAS SOUTHERN UNIVERSITY: Randal B. McDonald, Harris County; Lee E. Straus, Harris County.

To be a Member of the BOARD OF DIRECTORS - TRINITY RIVER AUTHORITY OF TEXAS: Roger Hunsaker, Tarrant County.

To be a Member of the VETERANS AFFAIRS COMMISSION: Robert J. Lyons, Orange County.

To be JUDGE OF THE 266th JUDICIAL DISTRICT: Donald R. Jones, Erath County.

To be JUDGE OF THE 278th JUDICIAL DISTRICT: Kenneth H. Keeling, Walker County.

To be JUDGE OF THE 93rd JUDICIAL DISTRICT: Mario E. Ramirez, Jr., Hidalgo County.

RECESS

On motion of Senator Howard the Senate at 10:46 o'clock a.m. took recess until 11:15 o'clock a.m. today.

AFTER RECESS

The Senate met at 11:15 o'clock a.m. and was called to order by the President.

SENATE BILL 5 WITH HOUSE AMENDMENTS

Senator Wilson called S.B. 5 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Evans

Substitute the following for S.B. 5:

A BILL TO BE ENTITLED AN ACT

relating to the regulation of the practice of medicine and continuation of the Texas State Board of Medical Examiners; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. ADOPTION OF MEDICAL PRACTICE ACT. The Medical Practice Act is adopted to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1.01. SHORT TITLE. This Act may be cited as the Medical Practice Act.

Sec. 1.02. FINDINGS AND PURPOSES. The legislature makes the following declarations:

(1) the practice of medicine is a privilege and not a natural right of individuals and as a matter of policy it is considered necessary to protect the public interest through the specific formulation of this Act to regulate the granting of that privilege and its subsequent use and control;

(2) the Texas State Board of Medical Examiners should remain the primary means of licensing, regulating, and disciplining the individual physicians and surgeons who are licensed to practice medicine;

(3) the current system relating to licensing physicians and surgeons is basically a sound, workable system and should be continued;

(4) the separate laws regulating the practice of medicine should be brought together under one Act; this Act is not intended to make substantive changes or alter prior judicial interpretation unless the subject matter in this Act

is substantively changed or new matter is expressly added or old matter expressly deleted;

(5) this Act is to continue the Texas State Board of Medical Examiners, previously established under the laws of this state, as an independent agency of the executive branch of government;

(6) the acts that created the Texas State Board of Medical Examiners and that regulate the practice of medicine and related subjects have been enacted as separate articles of the Revised Civil Statutes of Texas, 1925, as amended; that this Act is to comply with the Texas Sunset Act and to modernize and make the laws relating to the practice of medicine more accessible and understandable in such a manner as to make no substantive changes in prior laws or interpretation of those laws unless expressly so done by this Act;

(7) consistent with the objectives of the above, one purpose of this Act is to make the laws regulating physicians and surgeons more accessible and understandable by:

(A) rearranging those laws into a more logical order;

(B) employing a format and numbering system designed to facilitate citation of the law and to accommodate future expansion of the law;

(C) eliminating repealed, duplicative, unconstitutional, expired, executed, and other ineffective provisions;

(D) bringing together in one Act multiple articles; and

(E) restating the law in more modern language where possible; and

(8) the individual physician should be given the greatest opportunity to exercise his best independent professional judgment in deciding what medical acts can be safely delegated; therefore, rules of the board regulating delegation should have the purpose of promoting such exercise of professional judgment and decision by not containing, except as absolutely necessary, global prohibitions or restrictions on delegation of medical acts.

(9) recognizing that state agencies and political subdivisions which own or operate hospitals, facilities, or institutions or administer programs are responsible for determining medical staff appointments or the qualifications of physicians for such programs, and further recognizing that all persons licensed under this Act have met certain basic educational requirements, been examined by the board, and passed the same qualifying examination which applies the same standards to all who desire to practice medicine, irrespective of academic medical degree, it is the intent of the legislature to prohibit differentiation solely on the basis of the academic medical degree held by a person licensed under this Act in determining such medical staff appointments or such qualifications. To this end such state agencies or political subdivisions shall not differentiate solely on the basis of the academic medical degree held by a person licensed under this Act. State agencies or political subdivisions which own or operate hospitals, facilities, or institutions shall, however, be free to adopt reasonable rules, regulations, and requirements relating to qualifications for medical staff appointments, reappointments, termination of appointments, the delineation of clinical privileges, or the curtailment of clinical privileges of those who are appointed to such medical staff or permitted to participate in educational programs so long as such rules, regulations, and requirements are determined upon a reasonable basis, such as professional and ethical qualifications of the physician, upon standards that are reasonable, applied untainted by irrelevant considerations, supported by sufficient evidence, free of arbitrariness, capriciousness, or unreasonableness and which do not differentiate solely upon the academic medical degree held by such physician. The provisions contained herein relating to the academic medical degree shall not be applicable to any medical school or college or any programs of a medical school or college.

Sec. 1.03. **DEFINITIONS.** In this Act:

(1) "Administrative Procedure Act" means the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(2) "Board" means the Texas State Board of Medical Examiners.

(3) "Medical peer review committee" means a committee of a state or local professional medical society, the governing board of a licensed hospital in this state or of a medical staff of a licensed hospital, nursing home, or other health care facility, provided the committee or medical staff operates pursuant to written bylaws that have been approved by the policy-making body or the governing board of the society, hospital, nursing home, or other health care facility, or other organization of physicians formed pursuant to state or federal law and authorized to evaluate medical and health care services.

(4) "Open Meetings Law" means Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes).

(5) "Open Records Law" means Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes).

(6) "Person" means an individual unless otherwise expressly made applicable to a partnership, association, or corporation.

(7) "Physician" and "surgeon" shall be construed as synonymous, and the terms "practitioners," "practitioners of medicine," and "practice of medicine," as used in this Act, shall be construed to refer to and include physicians and surgeons.

(8) "Practicing Medicine." A person shall be considered to be practicing medicine within this Act:

(A) who shall publicly profess to be a physician or surgeon and shall diagnose, treat, or offer to treat, any disease or disorder, mental or physical, or any physical deformity or injury, by any system or method, or to effect cures thereof; or

(B) who shall diagnose, treat or offer to treat any disease or disorder, mental or physical or any physical deformity or injury by any system or method and to effect cures thereof and charge therefor, directly or indirectly, money or other compensation.

(9) "State" means any state, territory, or insular possession of the United States and the District of Columbia.

(10) "Texas Sunset Act" means Chapter 735, Acts of the 65th Legislature, Regular Session, 1977 (Article 5429k, Vernon's Texas Civil Statutes).

(11) Any term, word, word of art, or phrase that is used in this Act and not otherwise defined in this Act, has the meaning as is consistent with the common law.

SUBCHAPTER B. BOARD OF MEDICAL EXAMINERS

Sec. 2.01. **BOARD.** There is continued and recreated, as an independent administrative agency of the executive branch of government, the Texas State Board of Medical Examiners with powers to regulate the practice of medicine and with other duties as shall be assigned to the board.

Sec. 2.02. **MEMBERS, TERMS.** The board is composed of 15 members whose terms of office are six years or until a successor is appointed and qualified. Terms of office shall be staggered so that five terms expire biennially.

Sec. 2.03. **APPOINTMENT TO BOARD.** Members of the board shall be appointed by the governor and confirmed by the senate. Any vacancy on the board shall be filled by appointment of the governor. Any appointment made shall be without regard to race, creed, sex, religion, age, or national origin, except that a person younger than 18 years of age is not eligible for appointment.

Sec. 2.04. REMOVAL FROM OFFICE. (a) It is a ground for removal from the board if, during a member's service on the board, the member fails to meet the qualifications set forth in this Act for members of the board. The validity of an action of the board is not affected by the fact that it was taken when a ground for removal of a member of the board existed.

(b) Each member of the board shall be present for at least one-half of the regularly scheduled board meetings held each year. Failure of a board member to meet this requirement is grounds for removal of the member from the board and the removal creates a vacancy on the board.

Sec. 2.05. QUALIFICATIONS OF BOARD MEMBERS. (a) Board members shall be residents of Texas.

(b) Nine members of the board must:

(1) be learned and eminent physicians licensed to practice medicine within this state for at least three years prior to appointment and be graduates of a reputable medical school or college with a degree of doctor of medicine (M.D.); and

(2) have been actively engaged in the practice of medicine for at least five years immediately preceding their appointment.

(c) Three members of the board must:

(1) be learned and eminent physicians licensed to practice medicine within this state for at least three years prior to appointment and be graduates of a reputable medical school or college with a degree of doctor of osteopathic medicine (D.O.); and

(2) have been actively engaged in the practice of medicine for at least five years immediately preceding their appointment.

(d) Three members of the board must be public representatives who are not licensed to practice medicine, who are not financially involved in any organization subject to the regulation of the board, and who are not providers of health care. "Provider of health care" means:

(1) an individual who is a direct provider of health care (including but not limited to a dentist, registered nurse, licensed vocational nurse, chiropractor, podiatrist, physician assistant, psychologist, athletic trainer, physical therapist, social psychotherapist, pharmacist, optometrist, hospital administrator, or nursing home administrator) in that the individual's primary current activity is the provision of health care to individuals or the administration of facilities or institutions (including but not limited to hospitals, long-term care facilities, outpatient facilities, and health maintenance organizations) in which such care is provided and, when required by law or otherwise, the individual has received professional or other training in the provision of such care or in such administration and is licensed or certified or holds himself out for such provision or administration;

(2) one who is an indirect provider of health care in that the individual holds a fiduciary position with or has a fiduciary interest in, an entity described below in this subdivision; for purposes of this subdivision, a fiduciary position or interest as applied to any entity means a position or interest with respect to such entity affected with the character of a trust, including members of boards of directors and officers, majority shareholders, or agents, and receivers (either directly or through their spouses) of more than one-tenth of their annual income from any one or combination of fees or other compensation for research into or instruction in the provision of health care entities (or associations or organizations composed of such entities) engaged (or comprised of individuals who are engaged) in the provision of health care or in the provision of health care and entities (or association or organizations composed of such entities engaged in producing drugs or other such articles);

(3) one who is a member of the immediate family of an individual described in this subsection; for purposes of this subsection "immediate family" as applied to any individual includes only his parents, spouse, children, brothers, and sisters who reside in the same household;

(4) one who is engaged in or employed by an entity issuing any policy or contract of individual or group health insurance or hospital or medical service benefits; or

(5) one who is employed by, on the board of directors of, or holds elective office by or under the authority of, any unit of federal, state, or local government or any organization that receives a significant part of its funding from any such unit of federal, state, or local government.

(e) The public representatives must have been residents of Texas for at least five years immediately preceding their appointment.

(f) A person currently serving as president, vice-president, secretary, or treasurer of a statewide organization incorporated for the purpose of representing the entire profession licensed to practice medicine in the State of Texas, or an employee of such an organization, may not serve as a member of the board. In this subsection, such an organization includes any such organization representing the practice of osteopathic medicine.

(g) A person required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon's Texas Civil Statutes), by virtue of his activities on behalf of a trade or professional association in the regulated profession may not act as a member of the board.

(h) A person is ineligible for appointment to the board if, at the time of appointment, the person is a stockholder, paid full-time faculty member, or a member of the board of trustees of a medical school.

(i) All board members must take the official oath.

Sec. 2.06. COMPENSATION OF BOARD MEMBERS. Each member of the board is entitled to a per diem as set by legislative appropriation for each day that the member engages in the business of the board. A member may not receive any compensation for travel expenses, including expenses for meals and lodging, other than transportation expenses. A member is entitled to compensation for transportation expenses as prescribed by the General Appropriations Act. Preparing for a board meeting is not considered to be engaging in the business of the board. Any law passed by the 67th Session of the Legislature which conflicts with this section shall supersede.

Sec. 2.07. MEETINGS OF BOARD. At the first meeting of the board after each biennial appointment, the board shall elect from its members a president, vice-president, secretary-treasurer, and other officers as are required, in the opinion of the board, to carry out its duties. Regular meetings shall be held at least twice a year, at times and places as the board shall consider most convenient for applicants and board members. Special meetings may be held in accordance with rules adopted by the board.

Sec. 2.08. QUORUM, VOTING. The board shall have the power to determine what a quorum of the board shall be. A majority vote of the quorum shall be necessary for a decision of the board.

Sec. 2.09. POWERS AND DUTIES OF BOARD. (a) The board shall have, in addition to other powers and duties contained in this Act, the powers and duties prescribed by this section. The board may make rules, regulations, and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act. The board may not establish a fee schedule for medical services.

(b) The board may act under its rules through an executive committee, or other committee, unless otherwise specified in this Act. The executive committee shall be the president, vice-president, and secretary-treasurer except where otherwise provided in this Act.

(c) The board may make rules and establish fees as are reasonable relating to the granting and extension of expiration dates of temporary licenses.

(d) The board shall preserve a record of its proceedings which shall be a public record. The board shall also maintain records showing the name, age, place, and duration of residence of each applicant, the time spent in medical study in respective medical schools, and the years and schools from which degrees were granted. The record shall also show whether applicants were rejected or licensed and shall be prima facie evidence of all matters contained in the record. A certified copy of those permanent records, with the hand and seal of the secretary of the board, shall be admitted in evidence in all courts.

(e) The board shall employ, compensate, and provide administrators, clerks, employees, consultants, professionals, and other persons as may be found necessary, in its opinion, to carry out the provisions of this Act. The board shall be authorized and shall reimburse the above persons for actual and necessary expenses, including investigation expenses, travel and other incidental expenses, incurred in the performance of official duties as determined by the board.

(f) An employee of the board may not be employed or paid any fee for services rendered by a statewide organization incorporated for the purpose of representing the entire profession licensed to practice medicine in the State of Texas or related within the second degree by affinity or within the third degree by consanguinity to a person who is employed or paid any fee for services rendered by such an organization. In this subsection, such an organization includes any such organization representing the practice of osteopathic medicine.

(g) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon's Texas Civil Statutes), may not act as the general counsel of the board.

(h) The board may receive criminal records or reports from any law enforcement agency or source pertaining to its licensees or any applicant for license. The board shall submit to the Department of Public Safety a complete set of fingerprints of every applicant for a license and the Department of Public Safety shall cause them to be classified and checked against those in their fingerprint files and shall forthwith certify their findings concerning the criminal record of the applicant or shall report the lack of a criminal record, as the case may be, to the board. All criminal records and reports received from the Department of Public Safety shall be for the exclusive use of the board and shall be privileged and shall not be released or otherwise disclosed to any person or agency by the board except on court order. Any applicant for licensure or any licensee whose license is subject to revocation, cancellation, or suspension because of adverse information contained in the criminal records or reports shall be afforded the opportunity for a hearing before the board prior to any action on the application for license or revocation, cancellation, or suspension of license.

(i) The board shall have the power to appoint committees from its own membership, and to make rules and regulations not inconsistent with this Act as may be necessary for the performance of its duties. The duties of any of the committees appointed from the board membership shall be to consider matters pertaining to the enforcement of this Act and the regulations promulgated in accordance with this Act as shall be referred to the committees, and they shall make recommendations to the board with respect to those matters. The board

shall have the power, and may delegate that power to any committee, to issue subpoenas and subpoenas duces tecum to compel the attendance of witnesses, the production of books, records, and documents, to administer oaths, and to take testimony concerning all matters within its jurisdiction. There shall be appointed not less than one member of the board who meets the qualifications of Section 2.05(c) of this Act, and one member of the board who meets the qualifications of Section 2.05(d) of this Act, on all committees of the board. Should a member appointed to a committee as provided for in this subsection decline to accept, or not be qualified under this Act to serve on the committee, the position on the committee may be filled from any other member of the board regardless of qualification. In the event a member of the board, who meets the qualifications of Section 2.05(c) or (d) of this Act is not elected to an office which would make the member a member of the executive committee of the board as provided for in this Act, then the board shall cause to be appointed additional members of that committee so that at least one member serves on the committee who meets the qualifications of Section 2.05(c) of this Act, and at least one member serves on the committee who meets the qualifications of Section 2.05(d) of this Act.

(j) The board shall have the right to institute an action in its own name to enjoin the violation of any of the provisions of this Act. The action for an injunction shall be in addition to any other action, proceeding, or remedy authorized by law.

(k) The board shall establish by rule a reasonable charge for those fees not specifically determined but authorized by this Act. The board may not waive collection of any fee or penalty. The board shall place all fees received under authority of this Act, not otherwise specified, into the medical licensing fund. The board is authorized and shall by annual budget determine the manner of handling the funds and the purpose, consistent with this Act, for which the same may be used. The budgeted expenses authorized by the board shall not be a charge upon the general revenue of the state nor paid from the general revenue.

(l) The board shall be represented in court proceedings by the attorney general. The board shall assist the local prosecuting officers of any county in the enforcement of all laws of the state prohibiting the unlawful practice of medicine, this Act, and other matters; provided that all of the prosecutions shall, unless otherwise provided, be subject to the direction and control of the regularly and duly constituted prosecuting officers, and nothing in this Act shall be construed as depriving them of any authority vested in them by law.

(m) When the board is required to examine the academic and professional credentials of an applicant for licensure or to examine the applicant orally or in writing, a public member appointed to the board may not participate in the preparation of the examination process. However, the public members shall be given notice of and may be present at all of the examination processes and deliberation concerning the results thereof, and may participate in the development and establishment of the procedures and criteria for such examination process.

(n) The board is subject to the Administrative Procedure Act except as provided otherwise by this Act and in such event this Act will control.

(o) The board is subject to the Open Meetings Law and Open Records Law except as provided by this Act and in such event this Act will control.

(p) The board shall disseminate at least twice a year and at other times determined necessary by the board to all licensed physicians who are practicing in the State of Texas and, upon request, to the general public information as is of significant interest to the physicians in Texas, including board activities and

functions, pertinent changes in this Act or board rules and regulations, and attorney general opinions.

- (q) The board shall prepare the following:
 - (1) an alphabetical listing of the names of the licensees;
 - (2) an alphabetical listing of the names of the licensees by the county in which the licensee's principal place of practice is located;
 - (3) a summary of the board's functions;
 - (4) a copy of this Act and a listing of other laws relating to the practice of medicine;
 - (5) a copy of the board's rules; and
 - (6) other information considered appropriate by the board.
- (r) The board on request shall distribute a copy of information prepared under Subsection (q) of this section to the requesting person. The board shall distribute on request copies of the information to the public libraries in this state.
- (s) The board shall prepare information of consumer interest describing the regulatory functions of the board and describing the board's procedures by which consumer complaints are filed with and resolved by the board. The board on request shall make the information available to the general public and appropriate state agencies.
- (t) The board shall on request of a licensee issue certification on endorsement of its license to other states and charge a reasonable fee for the issuance.
- (u) The board shall cause to be developed an intra-agency career ladder program, one part of which shall be the intra-agency posting of each job opening with the board in a non-entry-level position. The intra-agency posting shall be made at least 10 days before any public posting.
- (v) The board shall cause to be developed a system of annual performance evaluations of the board's employees based on measurable job tasks. Any merit pay authorized by the board must be based on the system established under this subsection.

SUBCHAPTER C. LICENSURE

Sec. 3.01. REGISTRATION OF PRACTITIONERS AND INTERNS.

- (a) All persons now lawfully qualified to practice medicine in this state, or who are hereafter licensed for the practice of medicine by the board, shall be registered as practitioners with the board on or before the first day of January, and thereafter shall register in like manner annually, on or before the first day of January of each succeeding year. Each person so registered with the board shall pay, in connection with each annual registration and for the receipt hereinafter provided for, a fee established by the board which fee shall accompany the application of each person for registration. The payment shall be made to the board. Every person so registered shall file with the board a written application for annual registration, setting forth his name and mailing address, the place or places where the applicant is engaged in the practice of medicine, and other necessary information prescribed by the board.
- (b) Any person desiring to serve in this state as an intern, resident, or fellow in graduate medical education programs herein described who is not otherwise licensed by the board shall register with the board within 30 days after beginning service as an intern, resident, or fellow, and annually thereafter, and shall pay the fee as the board may determine to be reasonable. Upon registration, a permit shall be issued annually to the interns, residents, and fellows participating in graduate medical education programs at hospitals and other medical institutions approved by the board on request of the hospitals or medical institutions as provided by rules of the board. The fees shall be

deposited in the medical registration fund. Registration as an intern, resident, or fellow does not authorize the performance of medical acts except as the acts are performed as a part of graduate medical education programs and under the supervision of a licensed practitioner of medicine.

(c) Failure of any licensee to pay the annual license renewal fee on or before the 90th day after the date it is due automatically cancels his licensure. Any licensee whose license has been canceled because of failure to pay the annual license renewal fee may secure reinstatement of his license at any time within that license year upon payment of the delinquent fee together with a penalty in an amount as the board may determine to be reasonable. After expiration of the license year for which the license fee was not paid, no license shall be reinstated except upon application and satisfaction of other conditions as the board may establish and payment of delinquent fees and a penalty to be assessed by the board.

(d) Practicing medicine as defined in this Act without an annual registration receipt for the current year as provided in this Act has the same force and effect as, and is subject to all penalties of, practicing medicine without a license.

(e) On receipt of an application, accompanied by the proper registration fee, the board, after ascertaining, either from the records of the board or from other sources considered by it to be reliable, that the applicant is a licensed practitioner of medicine in this state, shall issue to the applicant an annual registration receipt certifying that the applicant has filed the application and has paid the registration fee for the year in question. The filing of the application, the payment of the registration fee, and the issuance of the receipt shall not entitle the holder to practice medicine in Texas unless he has in fact been previously licensed as a practitioner by the board, as prescribed by law, and unless the license to practice medicine is in full force and effect. In any prosecution for the unlawful practice of medicine the receipt showing payment of the annual registration fee required by this Act may not be treated as evidence that the holder is lawfully entitled to practice medicine.

(f) In performing its duties as provided in this Act, the board may act through the secretary-treasurer of the board. The secretary-treasurer is entitled to a salary to be fixed by the legislature in its General Appropriations Act for the performance of duties under this Act. The secretary-treasurer of the board shall file a surety bond with the board. The bond shall be in an amount not less than \$10,000, be in compliance with the insurance laws of the state, and be payable to the state for the use of the state if the secretary-treasurer does not faithfully discharge the duties of the office. The board shall pay the premium on the bond. The salary shall be paid out of said medical registration fund and shall not be, in any way, a charge upon the general revenue of the state.

(g) The annual registration fee shall apply to all persons licensed by the board, whether or not they are practicing within the borders of this state.

(h) The secretary-treasurer shall determine the eligibility of each applicant for licensure by examination or reciprocity and shall recommend to the board all applicants eligible for licensure. If the secretary-treasurer cannot determine the eligibility of an applicant, then a committee of the board shall determine eligibility of the applicant. If the committee of the board cannot determine the eligibility of an applicant, then the board shall determine eligibility of the applicant. If a physician's application is denied by the secretary-treasurer, the applicant may request within 20 days of receipt of denial that a committee of the board determine his eligibility. If a physician's application is denied by the committee of the board, then the applicant may request a hearing to appeal the committee's decision, within 20 days of denial. The board shall decide at the

next regular board meeting the final administrative decision as to licensure. This hearing is not a contested case under the Administrative Procedure Act, but the applicant is entitled to legal counsel of his choice and may appeal the decision of the board to a district court under Section 19 of the Administrative Procedure Act. The denied applicant is entitled to know in writing why he was denied, but all reports received or gathered by the board on each applicant are confidential and are not subject to disclosure under the Open Records Law.

(i) The board must notify each delinquent licensee of his impending license cancellation by registered or certified mail sent to the licensee's address listed with the board, not less than 30 days prior to the cancellation.

Sec. 3.02. RENEWALS. (a) On application on forms provided by the board for this purpose and receipt of renewal fees, licenses shall be renewed annually by the board.

(b) The board by rule may adopt a system under which registrations expire on various dates during the year. The date for license cancellation due to nonpayment shall be adjusted accordingly. For the year in which the expiration date is changed, registration fees payable on or before January 1 shall be prorated on a monthly basis so that each registrant shall pay only that portion of the registration fee which is allocable to the number of months during which the registration is valid. On renewal of the registration on the new expiration date, the total registration fee is payable.

Sec. 3.03. RECIPROCAL AGREEMENTS. (a) The board, at its sole discretion and upon payment by an applicant of a fee prescribed by the board under this Act, may grant a license to practice medicine to any reputable physician who is a graduate of a reputable medical college and who:

(1) is a licensee of another state or Canadian province having requirements for physician registration and practice substantially equivalent to those established by the laws of this state; or

(2) is qualified by an examination for a certificate to practice medicine under a commission in the uniformed services of the United States.

(b) An application for a license under this section must be in writing and upon a form prescribed by the board. The application must be accompanied by:

(1) a diploma or photograph of a diploma awarded to the applicant by a reputable medical college and a certified transcript or a certificate, license, or commission issued to the applicant by the Medical Corps of the uniformed services of the United States;

(2) a license or a certified copy of a license to practice medicine lawfully issued to the applicant, on examination, by some other state or a Canadian province that requires in its examination the same general degree of fitness required by this state and that grants the same reciprocal privileges to persons licensed by the board; or

(3) a certification made by an executive officer of the uniformed services of the United States, the president or secretary of the board that issued the license, or a duly constituted registration office of the state or Canadian province that issued the certificate or license, reciting that the accompanying certificate or license has not been canceled, suspended, or revoked except by honorable discharge from the Medical Corps of the uniformed services of the United States and reciting that the statement of the qualifications made in the application for medical license in Texas is true and correct.

(c) Applicants for a license under this section must subscribe to an oath in writing before an officer authorized by law to administer oaths. The written oath must be a part of the application. The application must state that:

(1) the license, certificate, or authority under which the applicant practiced medicine in the state or Canadian province from which the applicant is

removed or in the uniformed service in which the applicant served, was at the time of the removal or completion of service in full force and not canceled, suspended, or revoked;

(2) the applicant is the identical person to whom the certificate, license, or commission and the diploma were issued;

(3) no proceeding has been instituted against the applicant for the cancellation, suspension, or revocation of the certificate, license, or authority to practice medicine in the state, Canadian province, or uniformed service of the United States in which it was issued; and

(4) no prosecution is pending against the applicant in any state, federal, or Canadian court for any offense that under the laws of this state is a felony.

(d) A "reputable physician" means one who would be eligible for examination by the board. A "reputable medical school or college" means a medical school or college that was approved by the board at the time the applicant's degree was conferred.

(e) In addition to other licensure requirements, the board may require by rule and regulation that graduates of medical schools located outside of the United States and Canada, or the schools themselves, provide additional information to the board concerning the medical school attended prior to approval.

(f) The board may refuse to issue a license to an applicant who graduated from a medical school outside of the United States and Canada if it finds that the applicant does not possess the requisite qualifications to provide the same standard of medical care as provided by a licensed physician in this state.

(g) In addition to the requirements prescribed by this section, the board may require applicants to comply with other requirements that the board considers appropriate.

Sec. 3.04. QUALIFICATION OF LICENSEE. (a) An applicant, to be eligible for the examination, must present satisfactory proof to the board that the applicant:

(1) is at least 21 years of age;

(2) is of good professional character;

(3) has completed 60 semester hours of college courses other than in medical school, which courses would be acceptable, at the time of completion, to The University of Texas for credit on a bachelor of arts degree or a bachelor of science degree; and

(4) is a graduate of a medical school or college that was approved by the board at the time the degree was conferred.

(b) Applications for examination must be made in writing, verified by affidavit, filed with the board on forms prescribed by the board, and accompanied by a fee as the board determines to be reasonable.

Sec. 3.05. EXAMINATION. (a) All examinations for license to practice medicine shall be conducted in writing in the English language, and in a manner as to be entirely fair and impartial to all individuals and to every school or system of medicine. All applicants shall be known to the examiners only by numbers, without names or other method of identification on examination papers by which members of the board may be able to identify the applicants or examinees, until after the general averages of the examinees' numbers in the class have been determined and license granted or refused. Examinations shall be conducted on and cover those subjects generally taught by medical schools, a knowledge of which is commonly and generally required of candidates for the degree of doctor of medicine or doctor of osteopathy conferred by schools or colleges of medicine approved by the board, and the examinations shall also be conducted on and cover the subject of medical jurisprudence. On satisfactory

examination conducted as required by this Act under rules of the board, applicants shall be granted licenses to practice medicine. All questions and answers, with the grades attached, shall be preserved for one year in the executive office of the board or such other repository as the board by rule may direct. All applicants examined at the same time shall be given identical questions. All certificates shall be attested by the seal of the board. The board in its discretion may give the examination for license in two parts.

(b) In addition to the requirements prescribed by this Act, the board may require applicants to comply with other requirements that the board considers appropriate and establish reasonable fees for examination.

(c) All applicants for license to practice medicine in this state not otherwise licensed under the provisions of law must successfully pass an examination by the board. The board is authorized to adopt and enforce all rules of procedure not inconsistent with statutory requirements. All applicants shall be given due notice of the date and place of the examination; provided that the partial examinations provided for in this Act shall not be disturbed by this section. If any applicant, because of failure to pass the required examination, is refused a license, the applicant, at a time as the board may fix, shall be permitted to take a subsequent examination, upon any subjects required in the original examination as the board may prescribe, on the payment of a fee as the board may determine to be reasonable. In the event satisfactory grades shall be made on the subjects prescribed and taken on the reexamination, the board may grant the applicant a license to practice medicine. The board shall determine the credit to be given examinees on answers turned in on the subjects of complete and partial examination, and its decision is final.

(d) Examination questions that may be used in the future, examinations other than the one taken by the person requesting it, and deliberations and records relating to the professional character and fitness of applicants are exempted from the Open Meetings Law and the Open Records Law. The records, however, shall be disclosed to individual applicants upon written request, unless the person supplying the information to the board requests that it not be disclosed.

(e) Within 30 days after the day on which an examination is administered under this Act, the board shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the board shall notify each examinee of the results of the examination within four weeks after the date the board receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination, the board shall notify the examinee of the reason for the delay before the 90th day.

(f) If requested in writing by a person who fails the examination administered under this Act, the board shall furnish the person with a summarized analysis of the person's performance on the examination consisting of the person's score on each portion of the examination.

Sec. 3.06. CONSTRUCTION. (a) Nothing in this Act shall be construed so as to discriminate against a school or system of medical practice or to affect or limit in any way the application or use of the principles, tenets, or teachings of any church in the ministration to the sick or suffering by prayer or pastoral counseling without the use of any drug or material substance represented as being medically effective.

(b) This Act does not apply to:

(1) dentists, duly qualified and registered under the laws of this state who confine their practice strictly to dentistry;

(2) duly licensed optometrists who confine their practice strictly to optometry as defined by law;

(3) duly licensed chiropractors who confine their practice strictly to chiropractic as defined by law;

(4) registered or professional nurses and licensed vocational nurses registered or licensed under the laws of this state who confine their practice strictly within the provisions of such applicable licensing Acts and the laws of this state;

(5) duly licensed podiatrists who confine their practice strictly to podiatry as defined by law;

(6) duly licensed or certified psychologists who confine their activities or practice strictly to psychology as defined by law;

(7) duly licensed physical therapists who confine their activities or practice strictly to physical therapy and who are not in violation of any law relating to physical therapy practice;

(8) commissioned or contract surgeons of the uniformed services of the United States or in the Public Health and Marine Hospital Service, in the performance of their duties and not engaged in private practice;

(9) any person furnishing medical assistance in case of an emergency or disaster situation if no charge is made for the medical assistance;

(10) a student in training in a medical school approved by the board while performing the duties assigned in the course of training, providing the duties are performed under the supervision of a licensed practitioner, except that medical residents, interns, and fellows shall be required to register and be subject to the other applicable provisions of this Act;

(11) legally qualified physicians of other states called in consultation but who have no office in Texas and who appoint no place in this state for seeing, examining, or treating patients; or

(12) any other activities that the board may designate as exempt from the application of this Act.

(c) Nothing in this Act shall be construed to prohibit any person from providing nutritional advice or giving advice concerning proper nutrition. However, this subsection confers no authority to practice medicine or surgery or to undertake the prevention, treatment, or cure of disease, pain, injury, deformity, or physical or mental conditions or to state that any product might cure any disease, disorder, or condition in violation of any provision of law. In this subsection, the terms "providing nutritional advice" and "giving advice concerning proper nutrition" mean the giving of information as to the use and role of food and food ingredients, including dietary supplements.

(d) This Act shall be so construed that:

(1) a person licensed to practice medicine shall have the authority to delegate to any qualified and properly trained person or persons acting under the physician's supervision any medical act which a reasonable and prudent physician would find is within the scope of sound medical judgment to delegate if, in the opinion of the delegating physician, the act can be properly and safely performed by the person to whom the medical act is delegated and the act is performed in its customary manner, not in violation of any other statute, and the person does not hold himself out to the public as being authorized to practice medicine. The delegating physician shall remain responsible for the medical acts of the person performing the delegated medical acts. The board may determine whether or not an act constitutes the practice of medicine, not inconsistent with this Act, and may determine whether any medical act may or may not be properly or safely delegated by physicians;

(2) a person licensed to practice medicine is authorized and shall have the authority to delegate to any qualified and properly trained person or persons, acting under the physician's supervision, the act or acts of administering or providing, in the physician's office, dangerous drugs, as ordered by the physician which are used or required to meet the immediate needs of the physician's patients. The administration or provision, as ordered by a physician, may be delegated through physician's orders, standing medical orders, standing delegation orders, or other orders, where applicable, as the orders are defined by the board. The administration or provision of dangerous drugs shall be in compliance with laws relating to the practice of medicine and Texas and federal laws relating to the dangerous drugs. This subdivision does not permit the physician or person or persons acting under the supervision of the physician to keep a pharmacy, advertised or otherwise, for the retailing of the dangerous drugs without complying with the applicable laws relating to the dangerous drugs;

(3) a person licensed to practice medicine shall be authorized and shall have the authority to delegate to any qualified and properly trained person or persons, acting under the physician's supervision, the act or acts of administering or providing dangerous drugs, if the provision is provided through a facility licensed by the State Board of Pharmacy pursuant to applicable law, as ordered by the physician, which are used or required to meet the immediate needs of the physician's patients. The administration or provision, as ordered by a physician, may be delegated through physician's orders, standing medical orders, standing delegation orders, or other orders, where applicable, as the orders are defined by the board. The provision of dangerous drugs shall be in compliance with any laws relating to the practice of medicine, laws relating to the practice of professional nursing, laws relating to the practice of pharmacy, Texas or federal drug laws, and rules that may be properly issued by the State Board of Pharmacy. The administration shall be in compliance with any laws relating to the practice of medicine, laws relating to the practice of professional nursing, laws relating to the practice of pharmacy, and Texas or federal drug laws. This subdivision does not permit the physician or person or persons acting under the supervision of the physician to keep a pharmacy, advertised or otherwise, for the retailing of the dangerous drugs without complying with the applicable laws relating to the retailing of dangerous drugs. In this subdivision and in Subdivision (2) of this subsection, "administering" means the direct application of a drug by injection, inhalation, ingestion, or any other means, to the body of the physician's patient; "provision" means to supply one or more unit doses of a drug, medicine, or dangerous drug. The drug or medicine shall be supplied in a suitable container that has been labeled in compliance with the applicable drug laws. However, a qualified and trained person or persons, acting under the supervision of a physician, may be permitted to specify at the time of the provision the inclusion of the date of provision and the patient's name and address;

(4) in the provision of services and the administration of therapy by public health departments, as officially prescribed by the Texas Department of Health for the prevention or treatment of specific communicable diseases or health conditions for which the Texas Department of Health is responsible for control under state law, a person licensed to practice medicine shall be authorized and shall have the authority to delegate to any qualified and properly trained person or persons, acting under the physician's supervision, the act or acts of administering or providing dangerous drugs, as ordered by the physician, that are used or required to meet the needs of the patients. The administration or provision, as ordered by a physician, may be delegated through physician's

orders, standing medical orders, standing delegation orders, or other orders, where applicable, as the orders are defined by the board. The provision of dangerous drugs shall be in compliance with any laws relating to the practice of medicine, laws relating to the practice of pharmacy, and laws relating to the practice of professional nursing. The orders may not be inconsistent with this Act and may not be used for the performance of acts and duties that require the exercise of independent medical judgment. In this subdivision, "administering" means the direct application of a drug by injection, inhalation, ingestion, or any other means, to the body of the patient; "provision" means to supply one or more unit doses of a drug, medicine, or dangerous drug. The drug or medicine shall be supplied in a suitable container that has been labeled in compliance with the applicable drug laws. However, a qualified and trained person or persons, acting under the supervision of a physician, may be permitted to specify at the time of the provision the inclusion of the date of provision and the patient's name and address.

(5)(A) A duly licensed and qualified optometrist may administer topical ocular pharmaceutical agents in the practice of optometry as provided by this subdivision. These pharmaceutical agents may not be used for therapeutic purposes.

(B) To be entitled to use topical ocular pharmaceutical agents in the practice of optometry, an optometrist must possess a valid standing delegation order that:

(i) is issued to the optometrist by an area physician licensed to practice medicine in this state; and

(ii) authorizes the use of the pharmaceutical agents authorized by this subdivision.

(C) On request, an optometrist will be issued a standing delegation order described by Paragraph (B) of this subdivision unless the physician acting as a reasonable and prudent physician determines that denial is within the scope of sound medical judgment as it pertains to optometry, or that it is not in the public interest, and the basis for denial shall be given to the requesting optometrist in writing if requested. It is necessary that the physician have knowledge of the requesting optometrist, and if not, then same shall be good cause for denial.

(D) A standing delegation order issued under this subdivision or a representation of the order will be prominently displayed in the office of the optometrist. The board will prescribe the form of the standing delegation order and the certificate or representation of the order. The standing delegation order, as a minimum, will:

(i) be in writing, dated and signed by the physician;

(ii) specify the available topical ocular pharmaceutical agents, including but not limited to topical anesthetics and dilating agents, to be administered in the office; and

(iii) specify that said agents shall not be used for therapeutic purposes.

(E) On the complaint of any person or on its own initiative, the board of medical examiners may cancel a standing delegation order issued under this section if it determines that the optometrist possessing the order has violated the standing delegation order or this section.

(F) Except as provided by Paragraph (E) of this subdivision, a standing delegation order issued under this subdivision remains valid as long as:

(i) the physician who issued the order is a resident of this state and is licensed to practice medicine in this state; or

(ii) no irregularities are found on annual review; or

(iii) the order is not canceled for good cause by either party.

(G) A physician who has issued a standing delegation order in compliance with this subdivision is immune from liability in connection with acts performed pursuant to the standing delegation order so long as he has used prudent judgment in the issuance or the continuance of the standing delegation order.

(H) Nothing herein is intended to limit or expand the practice of optometry as defined by law.

(e) Nothing in this Act shall be construed to prohibit or discourage any person from providing or seeking advice or information pertaining to that person's own self-treatment or self-care, nor shall any portion of this Act be construed to prohibit the dissemination of information pertaining to self-care. However, this subsection confers no authority to practice medicine.

Sec. 3.07. UNLAWFUL AND PROHIBITED PRACTICES; PENALTIES. (a) A person practicing medicine in violation of this Act commits an offense. Except as provided by this section, an offense under this section is a Class A misdemeanor. If it be shown in the trial of a violation of this Act that the person has once before been convicted of a violation of this Act, on conviction the person shall be punished for a third degree felony. Each day of violation constitutes a separate offense. On final conviction of an offense under this section, a person forfeits all rights and privileges conferred by virtue of his licensure under this Act.

(b) Whoever makes any false statement in his application for examination or licensure by the board, or who makes any false statement under oath to obtain a license or to secure the registration of a license to practice medicine shall be guilty of tampering with a government record or perjury under the Penal Code and punished on conviction accordingly.

(c) A physician or surgeon may not employ or agree to employ, pay or promise to pay, or reward or promise to reward any person, firm, association of persons, partnership, or corporation for securing, soliciting, or drumming patients or patronage. A physician or surgeon may not accept or agree to accept any payment, fee, reward, or anything of value for securing, soliciting, or drumming for patients or patronage for any physician or surgeon. Whoever violates any provision of this section commits a Class A misdemeanor. Each payment, reward, or fee or agreement to pay or accept a reward or fee is a separate offense. The preceding shall not be construed to prohibit advertising except that which is false, misleading, or deceptive or that which advertises professional superiority or the performance of professional service in a superior manner and that is not readily subject to verification.

(d) Any person who is required to register annually to practice medicine in this state and who fails or refuses to apply for and pay the annual registration fee as provided for in this Act and who practices medicine is an illegal practitioner and shall, on conviction, be punished in the same manner as for the offense of practicing medicine without a license.

(e) It shall be unlawful for any individual, partnership, trust, association, or corporation by the use of any letters, words, or terms as an affix on stationery or on advertisements, or in any other manner, to indicate that the individual, partnership, trust, association, or corporation is entitled to practice medicine if the individual or entity is not licensed to do so.

(f) It shall be unlawful for any person to do any act described in Section 3.08(1), (8), (9), (10), (11), (12), (13) or (15) of this Act.

(g) A violation of this Act or a rule or regulation of the board for which a specific other penalty is not provided is a Class A misdemeanor.

(h) If any person licensed to practice medicine has had any charges filed against him when his license was not in force or was suspended, revoked, or

canceled, or if any penalties have been incurred by the practitioner during that period, any reinstatement of the license in no way abates the prosecution or penalties.

(i) A person to whom a physician has delegated a medical act to perform is not guilty of practicing medicine without a license unless the person acts with knowledge that the delegation and action thereunder is a violation of this Act.

Sec. 3.08. GROUNDS FOR REFUSAL TO ADMIT PERSONS TO EXAMINATION AND TO ISSUE LICENSE AND RENEWAL LICENSE. The board may refuse to admit persons to its examinations, and to issue a license to practice medicine to any person, for any of the following reasons:

(1) submission of a false or misleading statement, document, or certificate to the board in an application for examination or licensure; the presentation to the board of any license, certificate, or diploma that was illegally or fraudulently obtained; the practice of fraud or deception in taking or passing an examination;

(2) conviction of a crime of the grade of a felony, or a crime of a lesser degree that involves moral turpitude;

(3) intemperate use of alcohol or drugs that, in the opinion of the board, could endanger the lives of patients;

(4) unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public. Unprofessional or dishonorable conduct likely to deceive or defraud the public includes, but is not limited to, the following acts:

(A) committing any act that is in violation of the laws of the State of Texas if the act is connected with the physician's practice of medicine. A complaint, indictment, or conviction of a law violation is not necessary for the enforcement of this provision. Proof of the commission of the act while in the practice of medicine or under the guise of the practice of medicine is sufficient for action by the board under this section;

(B) failing to keep complete and accurate records of purchases and disposals of drugs listed in the Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), or of controlled substances scheduled in the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91-513). A physician shall keep records of his purchases and disposals of these drugs to include, without limitation, the date of purchase, the sale or disposal of the drugs by the physician, the name and address of the person receiving the drugs, and the reason for the disposing or dispensing of the drugs to the person. A failure to keep the records for a reasonable time is grounds for revoking, canceling, suspending, or probating the license of any practitioner of medicine;

(C) writing prescriptions for or dispensing to a person known to be a habitual user of narcotic drugs, controlled substances, or dangerous drugs, or to a person who the physician should have known was a habitual user of the narcotic drugs, controlled substances, or dangerous drugs. This provision does not apply to those persons being treated by the physician for their narcotic use after the physician notifies the board in writing of the name and address of the person being so treated;

(D) writing false or fictitious prescriptions for dangerous drugs as defined by Chapter 425, Acts of the 56th Legislature, Regular Session, 1959 (Article 4476-14, Vernon's Texas Civil Statutes), of controlled substances scheduled in the Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), or of controlled substances scheduled in the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91-513);

(E) prescribing or administering a drug or treatment that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is administered or prescribed;

(F) prescribing, administering, or dispensing in a manner not consistent with public health and welfare dangerous drugs as defined by Chapter 425, Acts of the 56th Legislature, Regular Session, 1959 (Article 4476-14, Vernon's Texas Civil Statutes), controlled substances scheduled in the Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), or controlled substances scheduled in the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91-513);

(G) persistently and flagrantly overcharging or overtreating patients;

(H) failing to adequately supervise the activities of those acting under the supervision of the physician; or

(I) delegating professional medical responsibility or acts to a person if the delegating physician knows or has reason to know that the person is not qualified by training, experience, or licensure to perform the responsibility or acts;

(5) violation or attempted violation, direct or indirect, of any valid rules issued under this Act, either as a principal, accessory, or accomplice;

(6) use of any advertising statement that is false, misleading, or deceptive;

(7) advertising professional superiority or the performance of professional service in a superior manner if the advertising is not readily subject to verification;

(8) purchase, sale, barter, or use, or any offer to purchase, sell, barter, or use, any medical degree, license, certificate, diploma, or transcript of license, certificate, or diploma, in or incident to an application to the board for a license to practice medicine;

(9) altering, with fraudulent intent, any medical license, certificate, diploma, or transcript of a medical license, certificate, or diploma;

(10) using any medical license, certificate, diploma, or transcript of a medical license, certificate, or diploma, that has been fraudulently purchased, issued, or counterfeited or that has been materially altered;

(11) impersonating, or acting as proxy for, another in any examination required by this Act for a medical license;

(12) impersonating a licensed practitioner or permitting or allowing another to use his license or certificate to practice medicine in this state for the purpose of diagnosing, treating, or offering to treat sick, injured, or afflicted human beings;

(13) employing, directly or indirectly, any person whose license to practice medicine has been suspended, or association in the practice of medicine with any person or persons whose license to practice medicine has been suspended, or any person who has been convicted of the unlawful practice of medicine in Texas or elsewhere;

(14) performing or procuring a criminal abortion or aiding or abetting in the procuring of a criminal abortion or attempting to perform or procure a criminal abortion or attempting to aid or abet the performance or procurement of a criminal abortion;

(15) aiding or abetting, directly or indirectly, the practice of medicine by any person, partnership, association, or corporation not duly licensed to practice medicine by the board;

(16) inability to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this subdivision the board shall, upon probable cause, request a physician to submit to a mental or physical examination by physicians designated by the board. If the physician refuses to submit to the examination, the board shall issue an order requiring the physician to show cause why he

should not be required to submit to the examination and shall schedule a hearing on the order within 30 days after notice is served on the physician. The physician shall be notified by either personal service or certified mail with return receipt requested. At the hearing, the physician and his attorney are entitled to present any testimony and other evidence to show why the physician should not be required to submit to the examination. After a complete hearing, the board shall issue an order either requiring the physician to submit to the examination or withdrawing the request for examination. An appeal from the decision of the board shall be taken under the Administrative Procedure Act;

(17) judgment by a court of competent jurisdiction that a person licensed to practice medicine is of unsound mind;

(18) professional failure to practice medicine in an acceptable manner consistent with public health and welfare;

(19) being removed, suspended, or having disciplinary action taken by his peers in any professional medical association or society, whether the association or society is local, regional, state, or national in scope, or being disciplined by a licensed hospital or medical staff of a hospital, including removal, suspension, limitation of hospital privileges, or other disciplinary action, if that action in the opinion of the board was based on unprofessional conduct or professional incompetence that was likely to harm the public, provided that the board finds that the actions were appropriate and reasonably supported by evidence submitted to it. The action does not constitute state action on the part of the association, society, or hospital medical staff;

(20) repeated or recurring meritorious health care liability claims that in the opinion of the board evidence professional incompetence likely to injure the public; or

(21) suspension, revocation, or restriction by another state of a license to practice medicine, based upon acts by the licensee similar to acts described in this section. A certified copy of the record of the state taking the action is conclusive evidence of it.

Sec. 3.09. LOSS OR DESTRUCTION OF LICENSE; CHANGE OF NAME OF LICENSEE; DUPLICATE LICENSE. (a) If any license issued under this Act is lost or destroyed, the holder of the license may present an application for a duplicate license to the board, on a form to be prescribed by the board, together with an affidavit of the loss or destruction, stating that the applicant is the same person to whom the license was issued, and other information concerning its loss or destruction as the board requires and shall, upon payment of a fee as the board may determine to be reasonable, be granted a duplicate license.

(b) The board may issue a new license if the licensee has changed his name.

Sec. 3.10. FEES. (a) All annual registration fees collected by the board shall be placed in the state treasury to the credit of the medical registration fund. The fees deposited to this special fund shall be credited to the appropriations of the board and shall be expended only for items set out in the General Appropriations Act, this Act, or other applicable statutes, to be used by the board, and under its direction, in the enforcement of this Act, the prohibition of the unlawful practice of medicine, and the dissemination of information to prevent the violation of the laws and to aid in the prosecution of those who violate the laws. All distributions from the fund may be made only upon written approval of the secretary-treasurer of the board or his designated representative, and the comptroller shall upon requisition of the board from time to time draw warrants upon the state treasurer for the amounts specified in the requisition.

(b) The board may not set, charge, collect, receive, or deposit any of the following fees in excess of:

- (1) for processing and granting a license by reciprocity to a licensee of another state \$300.00
- (2) for processing an application and administration of a partial examination for licensure \$250.00
- (3) for processing an application and administration of a complete examination for licensure \$300.00
- (4) for processing an application and issuance of a temporary license \$ 50.00
- (5) for processing an application and issuance of a duplicate license \$ 50.00
- (6) for processing an application and issuance of a license of reinstatement after a lapse or cancellation of a license \$150.00
- (7) for processing an application and issuance of an annual registration of a licensee \$ 50.00
- (8) for processing and issuance of an institutional permit for interns, residents, and others in approved medical training programs \$ 50.00
- (9) for processing an application and issuance of an endorsement to other state medical boards \$ 50.00.

(c) The board may set and collect a sales charge for making copies of any paper of record in the office of the board, and for any printed material published by the board. The charges shall be in amounts considered sufficient to reimburse the board for the actual expense.

(d) The state auditor shall audit the financial transactions of the board during each fiscal year.

(e) On or before the first day of January each year, the board shall file with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the board during the preceding year.

SUBCHAPTER D. DISCIPLINARY ACTION

Sec. 4.01. **GROUND FOR CANCELLATION, REVOCATION, SUSPENSION, AND PROBATION OF LICENSE.** Except for practitioners convicted of a felony under the Texas Controlled Substances Act, as amended (Article 4476-15, Vernon's Texas Civil Statutes), or Chapter 425, Acts of the 56th Legislature, Regular Session, 1959, as amended (Article 4476-14, Vernon's Texas Civil Statutes), the board may cancel, revoke, or suspend the license of any practitioner of medicine, or impose any other authorized means of discipline upon proof of the violation of this Act in any respect or for any cause for which the board is authorized to refuse to admit persons to its examination and to issue a license and renewal license. On proof that a practitioner of medicine has been initially convicted of a felony under the Texas Controlled Substances Act, as amended (Article 4476-15, Vernon's Texas Civil Statutes), or Chapter 425, Acts of the 56th Legislature, Regular Session, 1959, as amended (Article 4476-14, Vernon's Texas Civil Statutes), the board shall suspend the practitioner's license. On the practitioner's final conviction for such a felony offense, the board shall revoke the practitioner's license.

Sec. 4.02. **INITIATION OF CHARGES.** Proceedings, unless otherwise specified, under this Act and charges against a licensee may be instituted by the board on its own initiative or by any person. Charges must be in writing and on sworn affidavit filed with the board detailing the nature of the charges. The president or his designee shall set a time and place for a hearing, and shall cause a copy of the charges, together with a notice of the time and place fixed for the hearing to be served on the respondent or the respondent's counsel.

Sec. 4.03. NOTICE. (a) Service of process notifying the respondent of the time and place of a hearing and the nature of the charges against the person shall be made in person or by mail. Notice shall be sufficient if made in person or if sent by registered or certified mail to the person charged at the address shown in the board files or on his most recent application for registration or renewal, no later than 10 days before the hearing.

(b) If service of notice as prescribed by Subsection (a) of this section is impossible or cannot be effected, the board shall cause to be published once a week for two successive weeks a notice of the hearing in a newspaper published in the county of the last known place of practice in Texas of the person, if known. If the licensee is not currently practicing in Texas as evidenced by information in the board files, or if the last county of practice is unknown, publication shall be in a newspaper in Travis County. When publication of notice is used, the date of hearing may not be less than 10 days after the date of the last publication of notice.

Sec. 4.04. INVESTIGATION. All investigations shall be conducted by the board or persons authorized by the board to conduct them.

Sec. 4.05. HEARINGS, RULES. (a) All hearings conducted under this subchapter by the board shall comply with the provisions of the Administrative Procedure Act and the board's rules.

(b) The licensee shall have the right to produce witnesses or evidence on the person's behalf, to cross-examine witnesses, and to have subpoenas issued by the board.

(c) The board shall, after the hearing, determine the charges upon their merits.

(d) All complaints, adverse reports, and investigation files and reports received or gathered by the board relating to a licensee, an application for license, or a criminal investigation or proceedings are privileged. The board shall keep information on file about each complaint filed with the board, consistent with this Act. If a written complaint is filed with the board relating to a person licensed by the board, the board, at least as often as quarterly and until final determination of the action to be taken relative to the complaint, shall notify the complaining party consistent with this Act of the status of the complaint unless the notice would jeopardize an active investigation.

(e) The board in its discretion may accept the voluntary surrender of a license. No license may be returned unless the board determines, under rules established by it, that the licensee is competent to resume practice.

Sec. 4.06. RIGHT TO COUNSEL. In all hearings under this subchapter, the respondent shall have the right to appear either personally or by counsel, or both.

Sec. 4.07. CRIMINAL PROSECUTIONS NOT BARRED. Nothing in this Act shall be construed to bar criminal prosecutions for violations of this Act or any regulation promulgated under this Act.

Sec. 4.08. STATUS OF LICENSURE PENDING APPEAL. The decision of the board on any disciplinary matter may not be enjoined or stayed except on application to the appropriate court after notice to the board. A person may not practice medicine or deliver health care services in violation of any disciplinary order or action of the board while the appeal is pending unless otherwise stayed by the district court in which venue of the appeal lies. A stay may not be granted if the licensee's continued practice presents any danger to the public.

Sec. 4.09. JUDICIAL REVIEW. (a) Any person whose license to practice medicine has been canceled, revoked, suspended, or otherwise disciplined by the board may, within 30 days after the decision complained of is

final and appealable, take an appeal to any of the district courts in the licensee's county of residence, if the county of residence is at the time of the hearing in Texas. Otherwise, the appeal shall be taken to one of the district courts of Travis County.

(b) The proceedings on appeal shall be under the substantial evidence rule as provided for in the Administrative Procedure Act.

Sec. 4.10. PETITION FOR REINSTATEMENT. Upon application, the board may reissue a license to practice medicine to a person whose license has been canceled, revoked, or suspended, but the application, in the case of revocation, may not be made prior to one year after the revocation was issued or became final and must be made upon payment of the fees as established by the board and in the manner and form and under the conditions as the board may require. Further, the board may not reinstate or reissue a license to a person whose license has been canceled, revoked, or suspended because of a felony conviction under the Texas Controlled Substances Act, as amended (Article 4476-15, Vernon's Texas Civil Statutes), or Chapter 425, Acts of the 56th Legislature, Regular Session, 1959, as amended (Article 4476-14, Vernon's Texas Civil Statutes), except on an express determination based on substantial evidence contained in an investigative report indicating that the reinstatement or reissue of the license is in the best interests of the public and of the person whose license has been canceled, revoked, or suspended.

Sec. 4.11. PROBATION. (a) The board upon majority vote may provide that the order canceling, revoking, or suspending a license or imposing any other method of discipline be probated so long as the probationer conforms to the orders, conditions, and rules that the board may set out as the terms of probation. However, the board may not grant probation to a person whose license has been canceled, revoked, or suspended because of a felony conviction under the Texas Controlled Substances Act, as amended (Article 4476-15, Vernon's Texas Civil Statutes), or Chapter 425, Acts of the 56th Legislature, Regular Session, 1959, as amended (Article 4476-14, Vernon's Texas Civil Statutes), except on an express determination, based on substantial evidence, that the grant of probation is in the best interests of the public and of the person whose license has been suspended, revoked, or canceled. The board, at the time of probation, shall set out the period of time that constitutes the probationary period.

(b) The board may at any time while the probationer remains on probation hold a hearing, and upon majority vote, rescind the probation and enforce the board's original action.

(c) The hearing to rescind the probation shall be governed by the same provisions as are set forth in this subchapter for other charges.

Sec. 4.12. METHODS OF DISCIPLINE. Except as otherwise provided in Section 4.10, if the board finds any person to have committed any of the acts set forth in Section 3.08 of this Act, it may enter an order imposing one or more of the following:

(1) deny the person's application for a license or other authorization to practice medicine;

(2) administer a public or private reprimand;

(3) suspend, limit, or restrict the person's license or other authorization to practice medicine, including limiting the practice of the person to or by the exclusion of one or more specified activities of medicine;

(4) revoke the person's license or other authorization to practice medicine;

(5) require the person to submit to care, counseling, or treatment of physicians designated by the board as a condition for the initial, continued, or renewal of a license or other authorization to practice medicine;

(6) require the person to participate in a program of education or counseling prescribed by the board;

(7) require the person to practice under the direction of a physician designated by the board for a specified period of time; or

(8) require the person to perform public service considered appropriate by the board.

Sec. 4.13. **TEMPORARY SUSPENSION OF LICENSE.** If the executive committee of the board determines from the evidence or information presented to it that a person licensed to practice medicine in this state by his continuation in practice would constitute an immediate danger to the public, the executive committee of the board may temporarily suspend the license of that person without notice or hearing on the complaint, provided institution of proceedings for a hearing before the board is initiated simultaneously with the temporary suspension and provided that a hearing is held as soon as can be accomplished under the Administrative Procedure Act and this Act.

Sec. 4.14. **REPORT OF BOARD ACTIONS.** The board shall report within 30 days the restriction, suspension, or revocation of a physician's license or other disciplinary action by the board against a physician to the appropriate health facilities and hospitals, professional societies of physicians in this state, any entity responsible for the administration of Medicare and Medicaid in this state, and the complainant.

SUBCHAPTER E. OTHER PROVISIONS

Sec. 5.01. **CERTIFICATION OF CERTAIN ORGANIZATIONS.** (a) The board shall, on a form adopted by the board and under the rules promulgated by the board, approve and certify any health organization formed solely by persons licensed by the board upon application by the organization and presentation of satisfactory proof to the board that the organization:

(1) is a nonprofit corporation under the provisions of the Texas Non-Profit Corporation Act (Article 1396-1.01, et seq., Vernon's Texas Civil Statutes);

(2) is organized for any or all of the following purposes: the carrying out of scientific research and research projects in the public interest in the fields of medical sciences, medical economics, public health, sociology, and related areas; the supporting of medical education in medical schools through grants and scholarships; the improving and developing of the capabilities of individuals and institutions studying, teaching, and practicing medicine; the delivery of health care to the public; and the engaging in the instruction of the general public in the area of medical science, public health, and hygiene, and related instruction useful to the individual and beneficial to the community; and

(3) shall be organized and incorporated by persons licensed by the board and that the directors and trustees of the organization and their successors in office shall be persons licensed by the board and actively engaged in the practice of medicine.

(b) The board may, at its discretion, refuse to approve and certify any such health organization making application to the board if in the board's determination, the applying nonprofit corporation is established or organized or operated in contravention to or with the intent to circumvent any of the provisions of this Act.

Sec. 5.02. **SUPERVISION OF PHYSICIAN ASSISTANTS.** (a) The board by rule shall adopt standards to regulate the extent to which a physician licensed by the board may delegate his responsibilities as a physician to a physician assistant. The standards shall take into consideration:

(1) the skill of the physician assistant to whom the physician is to delegate the responsibility;

(2) the skill of the physician who is to delegate the responsibility;
(3) the nature of the responsibility delegated;
(4) the extent and nature of the supervision that the physician is to give to the physician assistant to whom the responsibility is delegated;
(5) the risks to the patient who is the subject of the delegated responsibility; and

(6) other factors considered relevant by the board.

(b) A physician licensed by the board shall comply with the standards adopted by the board as provided by this section.

(c)(1) The physician assistants advisory committee is established.

(2) The physician assistants advisory committee consists of not more than six physician assistants appointed by the board. A member of the advisory committee serves for a term of one year expiring on May 1 of each year.

(3) The advisory committee shall advise the board on matters relating to physician assistants. In order to assure that the advisory committee is able to properly exercise its advisory powers, the board shall provide the advisory committee with timely notice of all board meetings and a copy of the minutes of all board meetings. In addition, the board may not adopt any rule relating to the practice of physician assistants that is not an emergency matter unless the proposed rule has been submitted to the advisory committee for review and comment at least 30 days prior to the adoption of the rule.

Sec. 5.03. DISTRICT REVIEW COMMITTEES. (a) In this section:

(1) "Committee" means a district review committee created under Subchapter C of the Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes).

(2) "District" means the district established pursuant to the Medical Liability and Insurance Improvement Act of Texas.

(b) The number of and geographic area composed of various counties shall be designated by the board. The board, after a public hearing, may revise the number of districts and the composition of the various counties as it considers appropriate. In the event of change of the number or the composition of the various counties, the board shall follow the same procedure as applied to the initial designations.

(c) Each committee is composed of three persons appointed by the governor from among persons who have resided and practiced medicine in the district for more than three years before their appointment.

(d) Each member of each committee shall be appointed by the governor, after designation of the districts, for a term of six years, except the terms of the initial members. Each member shall hold office for the term appointed as long as qualified and until the appointment and qualifications of his successor.

(e) Vacancies in the membership of a committee shall be filled by the governor by appointment for the unexpired term in the manner provided for making other appointments to a committee.

(f) Each member of the committee is entitled to a per diem as set by legislative appropriation for each day that the member engages in the business of the committee. A member may not receive any compensation for travel expenses, including expenses for meals and lodging, other than transportation expenses. A member is entitled to compensation for transportation expenses as prescribed by the General Appropriations Act.

(g) Each member of a committee is subject to law and the rules of the board as if he were a member of the board, except members are not subject to the provisions of Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9b, Vernon's Texas Civil Statutes).

(h) The board may adopt, amend, or repeal rules as may be reasonably necessary to carry into effect the provisions of this section relating to:

- (1) per diem and expenses of members;
- (2) matters to be heard by or considered by the committees;
- (3) the conduct of any hearings and the authority the board may delegate to the committees; and
- (4) other matters relating to the committee's actions, duties, and responsibilities as may be reasonable.

(i) A committee may not exercise final authority over the disposition of a complaint against a person licensed by the board and may not issue a final order or rule. The board must make final disposition of complaints against persons licensed by it and shall have the sole authority to issue final orders and rules.

Sec. 5.04. FOREIGN MEDICAL SCHOOL STUDENTS. (a) Notwithstanding any other provision of law, an individual who has been a student of a foreign medical school is eligible for licensure to practice medicine in this state if he:

(1) has studied medicine in a reputable medical school as defined by the board located outside the United States;

(2) has completed all of the didactic work of the foreign medical school;

(3) has attained a score satisfactory to a medical school in the United States approved by the Liaison Committee on Medical Education on a qualifying examination and has satisfactorily completed one academic year of supervised clinical training for foreign medical students as defined by the American Medical Association Council on Medical Education under the direction of the medical school in the United States;

(4) has attained a passing score on the Educational Council for Foreign Medical Graduates Examination, or other examination, if required by the board; and

(5) has passed the examination required by the board of all applicants for license.

(b) Satisfaction of the requirements of Subsection (a) of this section are in lieu of the completion of any requirements of the foreign medical school beyond completion of the didactic work, and no other requirements shall be a condition of licensure to practice medicine in this state.

(c) Satisfaction of the requirements specified in Subsection (a) of this section shall be in lieu of certification by the Educational Council for Foreign Medical Graduates, and the certification is not a condition of licensure to practice medicine in this state for candidates who have completed the requirements of Subsection (a) of this section.

(d) A hospital that is licensed by this state, that is operated by the state or a political subdivision of the state, or that receives state financial assistance, directly or indirectly, may not require an individual who has been a student of a foreign medical school to satisfy any requirements other than those contained in Subsections (a)(1), (2), (3), and (4) of this section prior to commencing an internship or residency.

(e) A document granted by a medical school located outside the United States issued after the completion of all the didactic work of the foreign medical school shall, on certification by the medical school in the United States in which the training was received of satisfactory completion by the person to whom the document was issued of the requirements listed in Subsection (a)(3) of this section, be considered the equivalent of a degree of doctor of medicine or doctor of osteopathy for purposes of licensure.

Sec. 5.05. REPORTS AND DATA FROM INSURERS. (a) Every insurer providing medical professional liability insurance covering a physician or

physicians in this state shall submit to the board the report or data described in Subsections (b) and (c) of this section at the time prescribed. The report or data shall be provided with respect to a complaint filed against an insured in a court, if the complaint seeks damages relating to the insured's conduct in providing or failing to provide medical or health care services, and with respect to settlement of a claim or lawsuit made on behalf of the insured. In the event a physician practicing medicine in this state does not carry or is not covered by medical professional liability insurance, or is insured by a nonadmitted carrier, the information required to be reported in Subsections (b) and (c) of this section shall be the responsibility of the physician.

(b) The following report or data shall be furnished to the board within 90 days after receipt by the insurer of the complaint from the insured:

- (1) the name of the insured;
- (2) the policy number;
- (3) the policy limits;
- (4) a copy of the complaint;
- (5) a copy of the answer; and
- (6) other pertinent data and information within the knowledge of the insurer as the board may require.

(c) The following report or data and information shall be furnished to the board within 90 days from a judgment, dismissal, or settlement of suit involving the insured, or settlement of any claim on behalf of the insured without the filing of a lawsuit:

- (1) the date of a judgment, dismissal, or settlement;
- (2) whether an appeal has been taken and by which party;
- (3) the amount of the settlement or judgment against the insured; and
- (4) other pertinent information within the knowledge of the insurer as the board may require.

(d) There shall be no liability on the part of and no cause of action of any nature arises against an insurer reporting under this section, its agents or employees, or the board or its employees or representatives, for any action taken by them pursuant to this section.

(e) In the trial of a suit against a physician based on his conduct in providing or failing to provide medical or health care services, no report or data submitted to the board under this section nor the fact that the report or data has been submitted to the board may be offered in evidence or in any manner used in the trial of the case.

Sec. 5.06. REPORTING BY MEDICAL PEER REVIEW COMMITTEE OR PHYSICIANS. (a) Any medical peer review committee in this state and any physician licensed to practice medicine or otherwise lawfully practicing medicine in this state may report relevant facts to the board relating to the acts of any physician in this state if, in the opinion of the medical peer review committee or the physician, they have knowledge relating to the physician that reasonably raises a question with respect to his competency.

(b) A professional society in this state comprised primarily of physicians that takes formal disciplinary action against a member relating to professional ethics, medical incompetency, moral turpitude, or drug or alcohol abuse shall report in writing to the board the name of the member, together with the pertinent information relating to the action.

(c) The filing of a report with the board pursuant to this section, investigation by the board, or any disposition by the board does not, in itself, preclude any action by a hospital or other health care facility or professional society composed primarily of physicians to suspend, restrict, or revoke the privileges or membership of the physician.

(d) On a determination by the board that a report submitted by a medical peer review committee is without merit, the report shall be expunged from the physician's or applicant's individual historical record in the board's office. A physician or applicant or his authorized representative is entitled on request to examine the physician's or applicant's medical peer review report submitted to the board under the provisions of this section and to place into the record a statement of reasonable length of the physician's or applicant's view with respect to any information existing in the report. The statement shall at all times accompany that part of the record in contention.

(e)(1) Reports, information, or records received and maintained by the board pursuant to this section and Section 5.05 of this Act, including any material received or developed by the board during an investigation or hearing are strictly confidential and subject to the provisions of Subdivision (4) of this subsection. However, the board may only disclose this confidential information:

(A) in a disciplinary hearing before the board or in a subsequent trial or appeal of a board action or order;

(B) to the physician licensing or disciplinary authorities of other jurisdictions, to a local, state, or national professional medical society, or to a medical peer review committee located inside or outside this state that is concerned with granting, limiting, or denying a physician hospital privileges;

(C) pursuant to an order of a court of competent jurisdiction; or

(D) to qualified personnel for bona fide research or educational purposes, if personally identifiable information relating to any person or physician is first deleted.

(2) Orders of the board relating to disciplinary action against a physician are not confidential.

(3) In no event may records and reports received, maintained, or developed by the board, or disclosed by the board to others, pursuant to this article, be available for discovery or court subpoena, or introduced into evidence in a medical professional liability suit or other action for damages arising out of the provision of or failure to provide medical or health care services.

(4) A person who unlawfully discloses this confidential information possessed by the board commits a Class A misdemeanor.

(f) The following persons are immune from civil liability:

(1) a person reporting to or furnishing information to a medical peer review committee;

(2) a member, employee, or agent of the medical peer review committee who assists in the organization, investigation, or preparation of information or who makes a report on other information available to the board pursuant to this subsection; and

(3) any member or employee of the board or any person who assists the board in carrying out its duties or functions provided by law.

(g) The reporting or assistance provided for in this section does not constitute state action on the reporting or assisting medical peer review committee or its parent organization.

Sec. 5.07. REPORT OF FELONY CONVICTIONS. Within 30 days after the conviction of a person known to be a physician, licensed or otherwise lawfully practicing in this state or applying to be so licensed to practice, of a felony under the laws of this state, the clerk of the court of record in which the conviction was entered shall prepare and forward to the board a certified true and correct abstract of record of the court governing the case. The abstract shall include the name and address of the physician or applicant, the nature of the offense committed, the sentence, and the judgment of the court. The board shall prepare the form of the abstract and shall distribute copies of it to all

clerks of courts of record within this state with appropriate instructions for preparation and filing.

Sec. 5.08. PHYSICIAN-PATIENT COMMUNICATION. (a) Communications between one licensed to practice medicine, relative to or in connection with any professional services as a physician to a patient, is confidential and privileged and may not be disclosed except as provided in this section.

(b) Records of the identity, diagnosis, evaluation, or treatment of a patient by a physician that are created or maintained by a physician are confidential and privileged and may not be disclosed except as provided in this section.

(c) Any person who receives information from confidential communications or records as described in this section other than the persons listed in Subsection (h) of this section who are acting on the patient's behalf, may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the information was first obtained.

(d) The prohibitions of this section continue to apply to confidential communications or records concerning any patient irrespective of when the patient received the services of a physician.

(e) The privilege of confidentiality may be claimed by the patient or physician acting on the patient's behalf.

(f) The physician may claim the privilege of confidentiality, but only on behalf of the patient. The authority to do so is presumed in the absence of evidence to the contrary.

(g) Exceptions to confidentiality or privilege in court or administrative proceedings exist:

(1) when the proceedings are brought by the patient against a physician, including but not limited to malpractice proceedings, and any criminal or license revocation proceeding in which the patient is a complaining witness and in which disclosure is relevant to the claims or defense of a physician;

(2) when the patient or someone authorized to act on his behalf submits a written consent to the release of any confidential information, as provided in Subsection (j) of this section;

(3) when the purpose of the proceedings is to substantiate and collect on a claim for medical services rendered to the patient;

(4) in any civil litigation or administrative proceeding, if relevant, brought by the patient or someone on his behalf if the patient is attempting to recover monetary damages for any physical or mental condition including death of the patient. Any information is discoverable in any court or administrative proceeding in this state if the court or administrative body has jurisdiction over the subject matter, pursuant to rules of procedure specified for the matters;

(5) in any disciplinary investigation or proceeding of a physician conducted under or pursuant to this Act, provided that the board shall protect the identity of any patient whose medical records are examined, except for those patients covered under Subsection (g)(1) of this section or those patients who have submitted written consent to the release of their medical records as provided by Subsection (j) of this section;

(6) in any criminal investigation of a physician in which the board is participating or assisting in the investigation or proceeding by providing certain medical records obtained from the physician, provided that the board shall protect the identity of any patient whose medical records are provided in the investigation or proceeding, except for those patients covered under Subsection (g)(1) of this section or those patients who have submitted written consent to

the release of their medical records as provided by Subsection (j) of this section. This section does not authorize the release of any confidential information for the purpose of instigating or substantiating criminal charges against a patient;

(7) when the disclosure is relevant to an involuntary civil commitment or hospitalization proceeding under:

(A) the Texas Mental Health Code (Article 5547-1 et seq., Vernon's Texas Civil Statutes);

(B) the Mentally Retarded Persons Act of 1977 (Article 5547-300, Vernon's Texas Civil Statutes);

(C) Section 9, Chapter 411, Acts of the 53rd Legislature, Regular Session, 1953 (Article 5561c, Vernon's Texas Civil Statutes);

(D) Section 2, Chapter 543, Acts of the 61st Legislature, Regular Session, 1969 (Article 5561c-1, Vernon's Texas Civil Statutes).

(h) Exceptions to the privilege of confidentiality, in other than court or administrative proceedings, allowing disclosure of confidential information by a physician, exist only to the following:

(1) to governmental agencies if the disclosures are required or authorized by law;

(2) to medical or law enforcement personnel if the physician determines that there is a probability of imminent physical injury to the patient, to himself, or to others, or if there is a probability of immediate mental or emotional injury to the patient;

(3) to qualified personnel for the purpose of management audits, financial audits, program evaluations, or research, but the personnel may not identify, directly or indirectly, a patient in any report of the research, audit, or evaluation, or otherwise disclose identity in any manner;

(4) to those parts of the medical records reflecting charges and specific services rendered when necessary in the collection of fees for medical services provided by a physician or physicians or professional associations or other entities qualified to render or arrange for medical services;

(5) to any person who bears a written consent of the patient or other person authorized to act on the patient's behalf for the release of confidential information, as provided by Subsection (j) of this section;

(6) to individuals, corporations, or governmental agencies involved in the payment or collection of fees for medical services rendered by a physician; or

(7) to other physicians and personnel under the direction of the physician who are participating in the diagnosis, evaluation, or treatment of the patient.

(i) Exceptions to the confidentiality privilege in this Act are not affected by any statute enacted before the effective date of this Act.

(j)(1) Consent for the release of confidential information must be in writing and signed by the patient, or a parent or legal guardian if the patient is a minor, or a legal guardian if the patient has been adjudicated incompetent to manage his personal affairs, or an attorney ad litem appointed for the patient, as authorized by the Texas Mental Health Code (Article 5547-1 et seq., Vernon's Texas Civil Statutes); the Mentally Retarded Persons Act of 1977 (Article 5547-300, Vernon's Texas Civil Statutes); Section 9, Chapter 411, Acts of the 53rd Legislature, Regular Session, 1953 (Article 5561c, Vernon's Texas Civil Statutes); Section 3, Chapter 543, Acts of the 61st Legislature, Regular Session, 1969 (Article 5561c-1, Vernon's Texas Civil Statutes); Chapter 5, Texas Probate Code; and Chapter 11, Family Code, or a personal representative if the patient is deceased, provided that the written consent specifies the following:

(A) the information or medical records to be covered by the release;

(B) the reasons or purposes for the release; and

(C) the person to whom the information is to be released.

(2) The patient, or other person authorized to consent, has the right to withdraw his consent to the release of any information. Withdrawal of consent does not affect any information disclosed prior to the written notice of the withdrawal.

(3) Any person who receives information made confidential by this Act may disclose the information to others only to the extent consistent with the authorized purposes for which consent to release the information was obtained.

(k) A physician shall furnish copies of medical records requested, or a summary or narrative of the records, pursuant to a written consent for release of the information as provided by Subsection (j) of this section, except if the physician determines that access to the information would be harmful to the physical, mental, or emotional health of the patient, and the physician may delete confidential information about another person who has not consented to the release. The information shall be furnished by the physician within a reasonable period of time and reasonable fees for reproducing the information shall be paid by the patient or someone on his behalf. In this subsection, "medical records" means any records pertaining to the history, diagnosis, treatment, or prognosis of the patient.

(l) A person aggrieved by a violation of this section relating to the unauthorized release of confidential and privileged communications may petition the district court of the county in which the person resides, or in the case of a nonresident of the state, the District Court of Travis County, for appropriate injunctive relief, and the petition takes precedence over all civil matters on the docketed court except those matters to which equal precedence on the docket is granted by law. A person aggrieved by a violation of this section relating to the unauthorized release of confidential and privileged communications may prove a cause of action for civil damages.

(m) "Patient" for the purposes of this section means any person who consults, or is seen by a person licensed to practice medicine to receive medical care.

Sec. 5.09. **AUTHORITY TO SUPPLY DRUGS.** A person licensed to practice medicine under this Act is authorized to supply the needs of his patients with any drugs or remedies as are necessary to meet the patient's immediate needs; provided, however, this section does not permit the practitioner to operate a pharmacy without first complying with the Texas Pharmacy Act.

Sec. 5.10. **APPLICATION OF SUNSET ACT.** The board is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act, the board is abolished and this Act expires September 1, 1993.

SECTION 2. AMENDMENT. Article 4505a, Revised Civil Statutes of Texas, 1925, is amended to read as follows:

Art. 4505a. SOLICITING PATIENTS

Sec. 1. No ~~[physician, surgeon, osteopath,]~~ masseur, optometrist, or any other person who practices ~~[medicine or]~~ the art of healing the sick or afflicted, with or without the use of medicine shall employ or agree to employ, pay or promise to pay, or reward or promise to reward any person, firm, association of persons, partnership or corporation for securing, soliciting or drumming patients or patronage. No person shall accept or agree to accept any payment, fee or reward, or anything of value, for securing, soliciting or drumming for patients or patronage for any ~~[physician, surgeon, osteopath,]~~ masseur, optometrist, or any other person who practices ~~[medicine or]~~ the art of healing with or without medicine. Whoever violates any provision of this Article shall be fined not less than One Hundred nor more than Two Hundred Dollars for each offense. Each

payment or reward or fee or agreement to pay or accept a reward or fee shall be a separate offense.

Sec. 2. This article does not apply to a practitioner of medicine subject to regulation under the Medical Practice Act.

SECTION 3. AMENDMENT. Section 3, Chapter 556, Acts of the 66th Legislature, 1979 (Article 4590c-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. (a) Prior to the issuance of a license to practice any profession or occupation granted by The Texas Board of ~~[the Boards of Medical Examiners or]~~ Chiropractic Examiners, such board shall require from a person otherwise qualified by law, evidence, verified by transcript of credits, certifying that such person has satisfactorily completed 60 or more semester hours of college credits at a college or university which issues credits acceptable by The University of Texas at Austin leading toward a Bachelor of Arts or a Bachelor of Science degree. Said credits shall include the satisfactory completion of courses in anatomy, physiology, chemistry, bacteriology, pathology, hygiene, and public health with an average of 75 percent or better in each of such courses. The sequence of such courses shall be in the manner as from time to time is required by The University of Texas at Austin.

(b) The ~~[applicable]~~ board may charge a fee of not more than \$50 for verification of the satisfaction of the completion of the courses described in Subsection (a) of this section.

(c) Any license to practice issued after the effective date of this Act by the board ~~[boards identified in Subsection (a) of this section]~~ contrary to this Act shall be void.

(d) Any person who knowingly obtains a license from the board ~~[boards identified in Subsection (a) of this section]~~, or assists another in so doing, without complying with this Act, or who presents any information called for in this Act obtained by dishonesty or fraud or by any forged or counterfeit means, or who knowingly acts, advises, or assists another in so doing, shall be subject to a Class A misdemeanor and upon conviction shall be punished in accordance with Section 12.21, Penal Code.

~~[(e) All funds on hand in the basic science examination fund shall be allocated and transferred by the comptroller to the respective boards identified above, prorated on the basis of the number of certificates of proficiency issued by the Board of Basic Science to licensees of such board during the fiscal year immediately preceding the effective date of this Act. Such funds may be used by the Boards of Medical Examiners and of Chiropractic Examiners to carry out the provisions of this Act.]~~

SECTION 4. CARRY-OVER. (a) The Texas State Board of Medical Examiners previously established under the laws of this state is continued as an independent administrative agency of the executive branch of government.

(b) A person holding office as a member of the board on the effective date of this Act, continues to hold office for the term for which the member was originally appointed or until a successor is appointed and qualified. The initial appointments of the public members of the board shall be made so that one appointee serves a term that expires April 13, 1983, one appointee serves a term that expires April 13, 1985, and one appointee serves a term that expires April 13, 1987. Thereafter, at the expiration of the term of each member of the board appointed, a successor shall be appointed. The terms of office of all succeeding members expire April 13 of odd-numbered years. Members shall continue to hold office until a successor is appointed and qualified. In order to permit an orderly accomplishment of the requirements of Section 2.05(c) of the Medical Practice Act, the governor shall not appoint nor cause to be appointed more

than two physicians with the degree of doctor of osteopathic medicine (D.O.) to be members of the board prior to May 13, 1982, unless a vacancy on the board occurs sooner for those whose terms expire April 13, 1983, or thereafter. On or after that date or event, and no later than the time the appointments are to be made on or after April 13, 1983, the governor shall implement Section 2.05(c) of the Medical Practice Act.

(c) All licenses which were procured legally and issued legally by the board are hereby validated and subject to no retroactive action.

(d) All statutory references to physicians or persons licensed to practice medicine as defined by Article 4510, Revised Civil Statutes of Texas, 1925, shall be construed to have reference to this Act.

(e) All rules and regulations adopted and promulgated by the board shall be continued until amended or repealed. The rules and regulations that are in force on the effective date of this Act are validated and are repealed only to the extent of any conflict.

(f) Proceedings to deny an application for license or other authorization to practice medicine, cancel, revoke, suspend, or limit a license, or otherwise discipline a licensee do not abate by reason of the passage of this Act.

(g) Where applicable, the definitions in the Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), apply to the Medical Practice Act.

(h) The district review committees created and established pursuant to Subchapter C of the Medical Liability and Insurance Improvement Act of Texas are hereby continued and recreated, under the jurisdiction of the board. The number of and geographic area composed of various counties designated by the board on the effective date of this Act are hereby validated. A person holding office as a member of a district review committee on the effective date of this Act, continues to hold office for the term for which the person was originally appointed or until a successor shall be appointed and qualified. Thereafter, at the expiration of the term of each member appointed, a successor shall be appointed. The terms of office of all succeeding members expire January 15 of even-numbered years.

SECTION 5. IMPLEMENTATION OF PROGRAMS. The requirements of Sections 2.09(u) and (v), Medical Practice Act, that the Texas State Board of Medical Examiners develop a career ladder program and a system of annual performance evaluations, shall be implemented before September 1, 1982. The requirement of Section 2.09(v) that merit pay is to be based on the system of annual performance evaluations, shall be implemented before September 1, 1983.

SECTION 6. SEVERABILITY. If any provision of this Act or its application to any person or circumstance is held invalid or unconstitutional, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision and does not affect, impair, invalidate, or nullify the remainder of this Act. The effect shall be confined to the provision of the Act so adjudged to be invalid or unconstitutional and to this end the provisions of this Act are declared to be severable.

SECTION 7. REPEALER. (a) The following laws are repealed: Articles 4495, 4495a, 4496, 4497, 4498, 4498.1, 4498a, 4498b, 4499, 4499.1, 4499a, 4500, 4500a, 4501, 4501a, 4501b, 4502, 4503, 4504, 4504a, 4505, 4506, 4509, 4509a, 4510, 4510a, 4510b, 4511, 4511a, 4511b, 4511c, 4512, and 4512a, and Subchapters B and C of Article 4590i, Vernon's Texas Civil Statutes.

(b) No substantive changes in prior law or interpretation of prior law have been intended unless expressly done so in this Act. Consistent with this intention, unless expressly provided otherwise in this Act, any previous judicial

opinion, attorney general's opinion, board practice, or interpretation is not to be considered modified or declared inapplicable.

SECTION 8. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Floor Amendment No. 1 - Evans/Messer

Amend Subsection (f) of Section of 5.03 of **C.S.S.B. 5**, on pages 55-56, to read as follows:

"(f) Each member of the committee is entitled to receive a per diem as provided for board members for actual duty."

Floor Amendment No. 2 - Messer

Amend subsection (k) of Section 5.08 of **C.S.S.B. 5** on page 68, line 25, by striking the word "reproducing" and substituting the word "furnishing."

Floor Amendment No. 3 - Messer

Amend **C.S.S.B. 5** as follows:

(1) On pages 70-72, strike Section 3 of the bill and renumber subsequent sections appropriately.

(2) On page 75, between lines 3 and 4, add the following:

(b) Section 3, Chapter 556, Acts of the 66th Legislature, 1979 (Article 4590c-1, Vernon's Texas Civil Statutes), is repealed. The repeal of that section does not affect Section 10(d), Chapter 94, Acts of the 51st Legislature, Regular Session, 1949 (Article 4512b, Vernon's Texas Civil Statutes, as amended).

(3) On page 75, line 4, strike "(b)" and substitute "(c)".

Floor Amendment No. 4 - Messer

Amend **C.S.S.B. 5** as follows:

(1) On page 35, line 1, strike "or".

(2) On page 35, line 2, strike "or" and substitute "and".

Floor Amendment No. 5 - Messer

Amend subsection (b) of Section 5.06 of **C.S.S.B. 5**, on page 60, line 21, by striking the word "shall" and substituting the word "may."

Floor Amendment No. 6 - Ccverha

Amend **C.S.S.B. 5** on page 11, Section 2.08, line 31, by striking the entire section and substituting the following:

"SECTION 2.08. QUORUM, VOTING. A majority of the appointed members of the board shall constitute a quorum for all purposes, except for those activities of the board related to examining the credentials of applicants as outlined in Section 2.09(M) of this Act"

Floor Amendment No. 7 - Schoolcraft

Amend C.S.S.B. 5 as follows:

On page 35, line 12, insert a new section (6) to read
“(6) Authority to delegate medical acts to properly qualified persons as provided in this Section is recognized as applicable to emergency care rendered by emergency medical personnel certified by the Texas Department of Health.”

The amendments were read.

(Senator Uribe in Chair)

Senator Wilson moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Yeas: Andujar, Blake, Brooks, Brown, Caperton, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Traeger, Travis, Truan, Uribe, Vale, Williams, Wilson.

Nays: Doggett.

Absent-excused: Snelson.

GUEST PRESENTED

Senator Uribe introduced “Miss Texas”, Sheri Lynn Ryman. Miss Ryman was escorted to the President’s Rostrum by Speaker Billy Clayton and Representative Douglas McLeod.

The Senate welcomed Miss Ryman as a guest of the Senate.

(Senator Traeger in Chair)

HOUSE JOINT RESOLUTION 6 ON SECOND READING

Senator Howard moved to suspend the regular order of business to take up for consideration at this time:

H.J.R. 6, Proposing a constitutional amendment to dedicate excess state revenue to certain special funds, to authorize state guarantee of certain local government obligations, and to increase the allowable interest rate on certain bonds.

(President in Chair)

The motion prevailed by the following vote: Yeas 21, Nays 9.

Yeas: Andujar, Blake, Brooks, Brown, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Meier, Mengden, Ogg, Richards, Santiesteban, Sarpalius, Short, Traeger, Travis, Williams, Wilson.

Nays: Caperton, Doggett, Farabee, Mauzy, McKnight, Parker, Truan, Uribe, Vale.

Absent-excused: Snelson.

The resolution was read second time.

Question - Shall the resolution be passed to third reading?

RECESS

On motion of Senator Mauzy the Senate at 12:09 o'clock p.m. took recess until 2:00 o'clock p.m. today.

AFTER RECESS

The Senate met at 2:00 o'clock p.m. and was called to order by the President.

LEAVE OF ABSENCE

Senator Ogg was granted leave of absence for the remainder of today on account of important business on motion of Senator Brooks.

HOUSE JOINT RESOLUTION 6 ON SECOND READING

The Senate resumed consideration of H.J.R. 6 on its second reading and passage to third reading.

Question - Shall the resolution be passed to third reading?

(Senator Leedom in Chair)

MESSAGE FROM THE HOUSE

House Chamber
July 28, 1981

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 21, Welcoming Raul Velasco and cast and crew of "Siempre en Domingo" to Texas.

S.C.R. 18, Congratulating Mr. Jerry Newman on his selection as Texas State Artist.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

(President in Chair)

HOUSE JOINT RESOLUTION 6 ON SECOND READING

The Senate resumed consideration of **H.J.R. 6** on its second reading and passage to third reading.

Question - Shall the resolution be passed to third reading?

Senator Farabee offered the following amendment to the resolution:

Floor Amendment No. 1

Amend **H.J.R. 6** by striking all below the resolving clause and substituting in lieu thereof the following:

SECTION 1. That Article VIII of the Texas Constitution be amended by adding Section 24 to read as follows:

Sec. 24. (a) The legislature, by law, may provide for the creation, administration, and implementation of a bond guaranty program in which the state pledges its general credit in an amount not to exceed \$500,000,000 to the payment in whole or in part of the principal of and interest on bonds or other obligations that are issued by cities, towns, counties, districts, authorities, and any other political subdivisions of the state as defined by law for water development, water conservation, water quality enhancement, or flood control purposes or for any combination of these purposes. The state agency authorized by law to administer this bond guaranty program may be authorized by law to execute guarantees that bind the state to make payment of the principal of and interest on the bonds in the event of their default. The payment, if any, of any guarantee executed under this subsection shall be made from the first money coming into the state treasury that is not otherwise dedicated by this constitution. Notwithstanding the total amount of guarantees executed under this subsection, the total amount paid by the state under this subsection, excluding the costs of administration, may not exceed \$500,000,000. The ratio of guarantees to the total liability of the state under this subsection shall be established by law.

(b) Any bonds guaranteed by the full faith and credit of the state that are authorized by this constitution but are unissued on the effective date of this section, if otherwise authorized to be issued under this constitution, may be issued bearing a net effective interest rate not to exceed 12 percent per annum, or, if a net effective interest rate higher than 12 percent per annum is approved by law enacted by an affirmative record vote of two-thirds of the members of each house, not to exceed the higher rate approved. For the purpose of this subsection, the net effective interest rate shall be determined in the manner provided by law for bonds issued by cities.

(c) Laws may be enacted in anticipation of the adoption of this section.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 3, 1981. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the use of \$500,000,000 of the state's credit to assist cities, counties, towns, and other units of local government in the financing of projects for water development, water conservation, water quality enhancement, and flood control purposes and increasing the interest rate that may be paid on previously approved but unissued state bonds."

The amendment was read.

Senator Jones offered the following amendment to the pending amendment to the resolution:

Floor Amendment No. 2

Amend Floor Amend No. 1 at line 12 p. 2 strike "500,000,000 of the states credits to assist" and substituting in lieu thereof "the use of the state's credit not to exceed Five Hundred Million Dollars to guarantee the bonds of"

The amendment to the pending amendment was read and was adopted.

Question recurring on adoption of the pending amendment as amended, on motion of Senator Howard, the amendment as amended was tabled by the following vote: Yeas 16, Nays 13.

Yeas: Andujar, Blake, Brown, Harris, Howard, Jones, Leedom, Meier, Mengden, Richards, Sarpalius, Short, Traeger, Travis, Williams, Wilson.

Nays: Brooks, Caperton, Doggett, Farabee, Glasgow, Kothmann, Mauzy, McKnight, Parker, Santiesteban, Truan, Uribe, Vale.

Absent-excused: Ogg, Snelson.

Senator Farabee offered the following amendment to the resolution:

Floor Amendment No. 3

Amend House Joint Resolution 6 by striking all below the resolving clause and substituting in lieu thereof the following:

SECTION 1. That Article VIII of the Texas Constitution be amended by adding Section 24 to read as follows:

Sec. 24. (a) The legislature, by law, shall create one or more special funds in the state treasury for use for or in aid of water development, water conservation, water quality enhancement, or flood control or any combination of these purposes and shall provide for the manner in which money in the fund or funds will be made available. To the extent that the action does not impair contracts previously entered into obligating money on deposit in the fund or funds created under this subsection, the legislature, by law, may use money previously appropriated to the fund or funds created under this subsection for purposes other than those purposes provided in this subsection. Money on deposit in the fund or funds created under this subsection shall not be used to finance or aid any project that contemplates or results in the removal from the basin of origin of any surface water necessary to supply the reasonably foreseeable future water requirements for the next ensuing 50-year period within the river basin of origin, except on a temporary, interim basis.

(b) In addition to any program established by law to be funded with money from funds created under Subsection (a) of this section, the legislature, by law, may provide for the creation, administration, and implementation of a bond guaranty program in which the state pledges its general credit in an amount not to exceed \$500,000,000 to the payment in whole or in part of the principal of and interest on bonds or other obligations that are issued by cities, towns, counties, districts, authorities, and any other political subdivisions of the state as defined by law for any of the purposes for which the fund or funds created under Subsection (a) of this section may be used. The state agency

authorized by law to administer this bond guaranty program may be authorized by law to execute guarantees that bind the state to make payment of the principal of and interest on the bonds in the event of their default. The payment, if any, of any guarantee executed under this subsection shall be made from the first money coming into the state treasury that is not otherwise dedicated by this constitution. Notwithstanding the total amount of guarantees executed under this subsection, the total amount paid by the state under this subsection, excluding the costs of administration, may not exceed \$500,000,000. The ratio of guarantees to the total liability of the state under this subsection shall be established by law.

(c) The legislature, by law, may create and may dedicate state revenue to one or more state bond retirement funds in the state treasury for the purpose of making provision for the payment of state bonds. In this section, "state bonds" means bonds that have been issued by the state or by its agencies, departments, or officers as general obligations, guaranteed by the full faith and credit of the state, and that are designated by the legislature for payment from a state bond retirement fund created under this section.

(d) If one or more state bond retirement funds are created under Subsection (c) of this section, the comptroller of public accounts or other state officer designated by law shall certify the date as of which the principal amount of the investments held by each respective fund, together with the earnings on the investments, are in such amounts and, according to their terms, will mature and become due at such times as will provide on a timely basis, without the necessity of reinvestment, sums of money that, together with uninvested money on deposit in the fund, to a mathematical certainty, are sufficient to pay, when and as due, the principal of and interest on the state bonds to which each respective fund is dedicated. After the date of a certification under this subsection, the amounts transferred to that bond retirement fund, together with the principal of and earnings on the investments held by the fund, shall be used exclusively for the purpose of paying, when and as due, the principal of and interest on the state bonds to which that fund is dedicated. So long as those amounts are sufficient to pay, when and as due, the principal of and interest on the state bonds, further payments from any other funds of the state established to pay those state bonds are not required. However, all state bonds, whether or not provision for their payment is made under this section, shall continue to be general obligations of the state, guaranteed by its full faith and credit under this constitution. After the full payment of all state bonds to which a debt retirement fund is dedicated, any remaining amount in that fund shall be transferred to the general revenue fund.

(e) After a date certified by the comptroller of public accounts or other state officer designated by law under Subsection (d) of this section, the receipts, revenues, and funds pledged by another section of this constitution, by law, or by a contract of a state agency or officer to the payment of the state bonds as to which the certification is made may be used for or in aid of any of the purposes for which the proceeds of the state bonds to which the receipts, revenues, and funds were pledged may be used under this constitution. However, the legislature may provide by law that all or part of the pledged receipts, revenues, and funds may be used for or in aid of other public purposes.

(f) Any fund or funds created under this section shall be invested as authorized by law. The investment earnings of the fund or funds created under this section become part of the fund or funds from which the earnings are realized.

(g) The legislature, by law, may transfer money from the general revenue fund to any of the funds created under this section.

(h) Laws may be enacted in anticipation of the adoption of this section.

SECTION 2. That Article III of the Texas Constitution be amended by amending Section 65 to read as follows:

Sec. 65. MAXIMUM INTEREST RATE ON BONDS. Any bonds guaranteed by the full faith and credit of the state that are authorized by this constitution but are unissued on the effective date of this section, if otherwise authorized to be issued under this constitution, may be issued bearing a net effective interest rate not to exceed 12 percent per annum, or, if a net effective interest rate higher than 12 percent per annum is approved by law enacted by an affirmative record vote of two-thirds of the members of each house, not to exceed the higher rate approved. For the purpose of this subsection, the net effective interest rate shall be determined in the manner provided by law for bonds issued by cities. ~~[Wherever the Constitution authorizes an agency, instrumentality, or subdivision of the State to issue bonds and specifies the maximum rate of interest which may be paid on such bonds issued pursuant to such constitutional authority, such bonds may bear interest at rates not to exceed a weighted average annual interest rate of 6%. All Constitutional provisions specifically setting rates in conflict with this provision are hereby repealed. This amendment shall become effective upon its adoption.]~~

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 3, 1981. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment establishing a state fund for water development, water conservation, water quality enhancement, and flood control purposes; authorizing the use of \$500,000,000 of the state's credit to assist cities, counties, towns, and other units of local government in the financing of projects for such purposes; increasing the interest rate that may be paid on previously approved but unissued state bonds; and authorizing a program to retire state bonds."

The amendment was read.

Senator Parker offered the following amendment to the pending amendment to the resolution:

Floor Amendment No. 4

Amend Amendment No. 3 to H.J.R. 76 by deleting the words "50-year period" from Sec. 24(b) line 66, page 1, SECTION 1, Sec. 15.004, and inserting the words "75-year period" and striking from lines 66 and 67, page 1, the words ", except on a temporary, interim basis." and adding a period after the word "origin."

The amendment to the pending amendment was read.

On motion of Senator Sarpalius the amendment to the pending amendment was tabled by the following vote: Yeas 19, Nays 10.

Yeas: Andujar, Brooks, Brown, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Meier, Mengden, Richards, Santiesteban, Sarpalius, Short, Traeger, Travis, Williams.

Nays: Blake, Caperton, Doggett, Mauzy, McKnight, Parker, Truan, Uribe, Vale, Wilson.

Absent-excused: Ogg, Snelson.

Senator Jones offered the following amendment to the pending amendment to the resolution:

Floor Amendment No. 5

Amend Farabee amendment to **H.J.R. 6** on page 5 by striking the words and figures “\$500,000,000 of the states credit to assist” on lines 1 and 2 and substitute the following:

“the state’s credit, not to exceed five hundred million dollars, to guarantee the bonds of”.

The amendment to the pending amendment was read and was adopted.

Question recurring on adoption of the pending amendment as amended, on motion of Senator Howard, the pending amendment as amended was tabled by the following vote: Yeas 17, Nays 12.

Yeas: Andujar, Blake, Brown, Harris, Howard, Jones, Kothmann, Leedom, Meier, Mengden, Richards, Sarpalius, Short, Traeger, Travis, Williams, Wilson.

Nays: Brooks, Caperton, Doggett, Farabee, Glasgow, Mauzy, McKnight, Parker, Santiesteban, Truan, Uribe, Vale.

Absent-excused: Ogg, Snelson.

Senator Doggett offered the following amendment to the resolution:

Floor Amendment No. 6

Amend **H.J.R. 6**, Senate Committee Report, as follows:

(1) Amend Section 24(a) on page 1 to read as follows:

(a) If the total amount of state tax revenue that is collected in a particular biennium and that is not otherwise dedicated by this constitution exceeds the limitation on appropriations of state tax revenue for that biennium under Article VIII, Section 22, of this constitution, the legislature, by law, shall dedicate that excess state tax revenue to tax relief as provided by this section, except where it makes an affirmative finding that future state needs require these excess revenues. The legislature may provide by general law for relief from state taxes or from residential ad valorem taxes with funds from the excess state tax revenue. The legislature may by general law limit the provision of relief to persons determined to be in need of relief on account of age, disability, or individual or general economic circumstances, or to areas in which the tax burden is affected by exempt property, and may authorize or require a state agency to provide the relief directly to those persons or may replace revenue losses of political subdivisions caused by providing the relief authorized by this subsection. Nothing herein shall prevent the legislature authorizing other forms of tax relief.

(2) Delete subsections (b) and (g) of Section 24 and redesignate the remaining subsections respectively.

The amendment was read.

(Senator Meier in Chair)

On motion of Senator Howard, the amendment was tabled by the following vote: Yeas 20, Nays 9.

Yeas: Andujar, Blake, Brooks, Brown, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Meier, Mengden, Richards, Santiesteban, Sarpalius, Short, Traeger, Travis, Williams, Wilson.

Nays: Caperton, Doggett, Farabee, Mauzy, McKnight, Parker, Truan, Uribe, Vale.

Absent-excused: Ogg, Snelson.

Senator Jones offered the following amendment to the resolution:

Floor Amendment No. 7

Amend **H.J.R. 6** by changing Section 24, subsection (g) on lines 53-56 to read as follows:

“(g) The legislature by law may limit the amount of excess state revenues that may be deposited to the fund or funds created under Subsection (b) of this section.”

The amendment was read and was adopted.

Senator Jones offered the following amendment to the resolution:

Floor Amendment No. 8.

Amend **H.J.R. 6** on Page 3, Lines 13 and 14 of the Senate Printing by striking the words and figures “\$500,000,000 of the state's credit to assist” and substituting the following:

“the state's credit, not to exceed five hundred million dollars, to guarantee the bonds of.”

The amendment was read and was adopted.

Senator Uribe offered the following amendment to the resolution:

Floor Amendment No. 9

Amend Subsection C of **H.J.R. 6** by adding the following to the end of the subsection:

“One-half of the total amount of guarantees to be dedicated to secure bonds of political subdivisions as provided by this subsection shall be apportioned equally among five geographical regions as provided by law for the exclusive use of political subdivisions in each respective region.

The amendment was read.

Question - Shall the amendment be adopted?

SENATE PAGES EXCUSED

On motion of Senator Mauzy and by unanimous consent, the Senate pages were excused for the remainder of the day.

HOUSE JOINT RESOLUTION 6 ON SECOND READING

The Senate resumed consideration of **H.J.R. 6** on its second reading and passage to third reading with an amendment by Senator Uribe pending.

Question - Shall the amendment be adopted?

On motion of Senator Sarpalius, the amendment was tabled by the following vote: Yeas 19, Nays 10.

Yeas: Andujar, Blake, Brooks, Brown, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Meier, Mengden, Richards, Santiesteban, Sarpalius, Short, Traeger, Travis, Williams.

Nays: Caperton, Doggett, Farabee, Mauzy, McKnight, Parker, Truan, Uribe, Vale, Wilson.

Absent-excused: Ogg, Snelson.

Senator Doggett offered the following amendment to the resolution:

Floor Amendment No. 10

Amend **H.J.R. 6**, Senate Committee Report, by striking on page 3, Section 2, lines 8 and 9, the language "November 3, 1981" and placing in lieu thereof the language "November 2, 1982".

The amendment was read.

(President in Chair)

On motion of Senator Howard, the amendment was tabled by the following vote: Yeas 20, Nays 9.

Yeas: Andujar, Blake, Brooks, Brown, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Meier, Mengden, Richards, Santiesteban, Sarpalius, Short, Traeger, Travis, Williams, Wilson.

Nays: Caperton, Doggett, Farabee, Mauzy, McKnight, Parker, Truan, Uribe, Vale.

Absent-excused: Ogg, Snelson.

Senator Parker offered the following amendment to the resolution:

Floor Amendment No. 11

Amend **H.J.R. 6** by striking all below the resolving clause and substituting the following:

SECTION 1. That Article VIII of the Texas Constitution be amended by adding Section 24 to read as follows:

Sec. 24. (a) The legislature, by law, may provide for the creation, administration, and implementation of a bond guaranty program in which the state pledges its general credit in an amount not to exceed \$500,000,000 to the payment in whole or in part of the principal of and interest on bonds or other obligations that are issued by cities, towns, counties, districts, authorities, and any other political subdivisions of the state as defined by law for or in aid of water development, water conservation, water quality enhancement, or flood control or any combination of these purposes. The state agency authorized by law to administer this bond guaranty program may be authorized by law to execute guarantees that bind the state to make payment of the principal of and interest on the bonds in the event of their default. The payment, if any, of any guarantee executed under this subsection shall be made from the first money coming into the state treasury that is not otherwise dedicated by this constitution. Notwithstanding the total amount of guarantees executed under this subsection, the total amount paid by the state under this subsection, excluding the costs of administration, may not exceed \$500,000,000. The ratio of guarantees to the total liability of the state under this subsection shall be established by law.

(b) The bond guaranty program created under this section shall not be used to guarantee bonds to finance or aid any project that contemplates or results in the removal from the basin of origin of any surface water necessary to supply the reasonably foreseeable future water requirements for the next ensuing 50-year period within the river basin of origin, except on a temporary, interim basis.

(c) Laws may be enacted in anticipation of the adoption of this section.

SECTION 2. That Article VIII of the Texas Constitution be amended by adding Section 25 to read as follows:

Sec. 25. Any bonds guaranteed by the full faith and credit of the state that are authorized by this constitution but are unissued on the effective date of this section, if otherwise authorized to be issued under this constitution, may be issued bearing a net effective interest rate not to exceed 12 percent per annum, or, if a net effective interest rate higher than 12 percent per annum is approved by law enacted by an affirmative record vote of two-thirds of the members of each house, not to exceed the higher rate approved. For the purpose of this section, the net effective interest rate shall be determined in the manner provided by law for bonds issued by cities.

SECTION 3. That Article VIII of the Texas Constitution be amended by adding Section 26 to read as follows:

Sec. 26. (a) If the total amount of state tax revenue that is collected in a particular biennium and that is not otherwise dedicated by this constitution exceeds the limitation on appropriations of state tax revenue for that biennium under Article VIII, Section 22, of this constitution, one-half of that excess state tax revenue is dedicated to the special fund or funds created to carry out the purposes under Subsection (b) of this section. All or part of the remaining one-half of the excess state tax revenue may be dedicated by law for any purposes determined by the legislature including the creation of state bond retirement funds under this section. As soon as possible after the end of each biennium, the comptroller of public accounts shall determine the amount of the excess state tax revenue and, subject to Subsection (f) of this section, shall deposit one-half of the excess state tax revenue in the fund or funds created under Subsection (b) of this section and all or that part of the remaining one-half of the excess state tax revenue to any other fund or funds created by law to which excess state tax revenue has been dedicated by the legislature.

(b) The legislature, by law, shall create one or more special funds in the state treasury for use for or in aid of water development, water conservation, water quality enhancement, or flood control or any combination of these purposes and shall provide the manner in which deposits will be made to the fund or funds, the purposes for which the fund or funds may be used, and the manner in which money in the fund or funds will be made available. To the extent that the action does not impair contracts previously entered into obligating money on deposit in the fund or funds created under this subsection, the legislature, by law, may use money dedicated by Subsection (a) of this section to the fund or funds created under this subsection for purposes other than those purposes provided in this subsection. Money on deposit in the fund or funds created under this subsection shall not be used to finance or aid any project that contemplates or results in the removal from the basin of origin of any surface water necessary to supply the reasonably foreseeable future water requirements for the next ensuing 50-year period within the river basin of origin, except on a temporary, interim basis.

(c) The legislature, by law, may create and may dedicate state revenue to one or more state bond retirement funds in the state treasury for the purpose of making provision for the payment of state bonds. In this section, "state bonds" means bonds that have been issued by the state or by its agencies, departments, or officers as general obligations, guaranteed by the full faith and credit of the state, and that are designated by the legislature for payment from a state bond retirement fund created under this section.

(d) If one or more state bond retirement funds are created under Subsection (c) of this section, the comptroller of public accounts or other state officer designated by law shall certify the date as of which the principal amount of the investments held by each respective fund, together with the earnings on the investments, are in such amounts and, according to their terms, will mature and become due at such times as will provide on a timely basis, without the necessity of reinvestment, sums of money that, together with uninvested money on deposit in the fund, to a mathematical certainty, are sufficient to pay, when and as due, the principal of and interest on the state bonds to which each respective fund is dedicated. After the date of a certification under this subsection, the amounts transferred to that bond retirement fund, together with the principal of and earnings on the investments held by the fund, shall be used exclusively for the purpose of paying, when and as due, the principal of and interest on the state bonds to which that fund is dedicated. So long as those amounts are sufficient to pay, when and as due, the principal of and interest on the state bonds, further payments from any other funds of the state established to pay those state bonds are not required. However, all state bonds, whether or not provision for their payment is made under this section, shall continue to be general obligations of the state, guaranteed by its full faith and credit under this constitution. After the full payment of all state bonds to which a debt retirement fund is dedicated, any remaining amount in that fund shall be transferred to the general revenue fund.

(e) After a date certified by the comptroller of public accounts or other state officer designated by law under Subsection (d) of this section, the receipts, revenues, and funds pledged by another section of this constitution, by law, or by a contract of a state agency or officer to the payment of the state bonds as to which the certification is made may be used for or in aid of any of the purposes for which the proceeds of the state bonds to which the receipts, revenues, and funds were pledged may be used under this constitution. However, the legislature may provide by law that all or part of the pledged receipts, revenues, and funds may be used for or in aid of other public purposes.

(f) The legislature, by law, may limit the amount of excess state revenues that may be deposited to the fund or funds created under Subsection (b) of this section.

(g) Any fund or funds created under this section shall be invested as authorized by law. The investment earnings of the fund or funds created under this section become part of the fund or funds from which the earnings are realized.

(h) The legislature, by law, may transfer money from the general revenue fund to any of the funds created under this section.

(i) Laws may be enacted in anticipation of the adoption of this section.

SECTION 4. (a) The constitutional amendment proposed by Section 1 of this resolution shall be submitted to the voters at an election to be held on November 3, 1981. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the use of the state's credit, not to exceed five hundred million dollars, to guarantee the bonds of cities, counties, towns, and other units of local government in the financing of projects for water development, water conservation, water quality enhancement, and flood control purposes."

(b) The constitutional amendment proposed by Section 2 of this resolution shall be submitted to the voters at an election to be held on November 3, 1981. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment increasing the interest rate that may be paid on previously approved but unissued state bonds."

(c) The constitutional amendment proposed by Section 3 of this resolution shall be submitted to the voters at an election to be held on November 3, 1981. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the use of a portion of the excess revenues of the state for water development, water conservation, water quality enhancement, and flood control purposes and authorizing a program to retire state bonds."

The amendment was read.

On motion of Senator Howard, the amendment was tabled by the following vote: Yeas 18, Nays 11.

Yeas: Andujar, Blake, Brooks, Brown, Glasgow, Harris, Howard, Jones, Kothmann, Meier, Mengden, Richards, Santiesteban, Sarpalius, Short, Traeger, Travis, Williams.

Nays: Caperton, Doggett, Farabee, Leedom, Mauzy, McKnight, Parker, Truan, Uribe, Vale, Wilson.

Absent-excused: Ogg, Snelson.

On motion of Senator Howard and by unanimous consent, the caption was amended to conform to the body of the resolution as amended.

The resolution as amended was passed to third reading by the following vote: Yeas 21, Nays 8.

Yeas: Andujar, Blake, Brooks, Brown, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Meier, Mengden, Richards, Santiesteban, Sarpalius, Short, Traeger, Travis, Uribe, Williams, Wilson.

Nays: Caperton, Doggett, Farabee, Mauzy, McKnight, Parker, Truan, Vale.

Absent-excused: Ogg, Snelson.

ADJOURNMENT

Senator Howard moved the Senate adjourn until 5:45 o'clock p.m. today.

Senator Doggett made the substitute motion that the Senate adjourn until 10:30 o'clock a.m. Thursday, July 30, 1981.

Question on the motion to adjourn until 10:30 o'clock a.m. Thursday, July 30, 1981, the motion was lost by the following vote: Yeas 8, Nays 21.

Yeas: Caperton, Doggett, Farabee, Mauzy, McKnight, Parker, Truan, Vale.

Nays: Andujar, Blake, Brooks, Brown, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Meier, Mengden, Richards, Santiesteban, Sarpalius, Short, Traeger, Travis, Uribe, Williams, Wilson.

Absent-excused: Ogg, Snelson.

Question recurring on the motion to adjourn until 5:45 o'clock p.m. today, the motion prevailed by the following vote: Yeas 21, Nays 8.

Yeas: Andujar, Blake, Brooks, Brown, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Meier, Mengden, Richards, Santiesteban, Sarpalius, Short, Traeger, Travis, Uribe, Williams, Wilson.

Nays: Caperton, Doggett, Farabee, Mauzy, McKnight, Parker, Truan, Vale.

Absent-excused: Ogg, Snelson.

Accordingly, the Senate at 5:42 o'clock p.m. adjourned until 5:45 o'clock p.m. today.

WELCOME AND CONGRATULATORY RESOLUTIONS

H.C.R. 21 - (Doggett): Welcoming Raul Velasco and cast and crew of "Siempre en Domingo" to Texas.

S.R. 67 - By Wilson: Extending congratulations to Mr. and Mrs. Michael James Henry.

S.R. 68 - By Doggett: Extending welcome to Amanda Weeks.

S.R. 69 - By Jones: Extending welcome to Judd Thomas Wall.

S.R. 70 - By Jones: Extending welcome to Cricket Wall.

S.R. 71 - By Traeger: Extending welcome to Joe Stanfield.